Washington, Tuesday, January 14, 1958

### TITLE 6-AGRICULTURAL CREDIT

# Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter G—Miscellaneous Regulations
[FHA Instruction 447.1]

PART 391-WATERSHED LOANS

POLICIES AND AUTHORITIES

Title 6, Code of Federal Regulations, is amended by the addition of a new Part 391 as follows:

#### Subpart A-Policies and Authorities

Sec.	
391.1	General.
391.2	Application for loans.
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391.14	Use of and accountability for loan funds.
391.15	Accounts and records of local organization.
AUTI	iority: §§ 391.1 to 391.15 issued under

AUTHORITY: §§ 391.1 to 391.15 issued under R. S. 161, 5 U. S. C. 22. Interpret or apply secs. 1-8, 68 Stat. 666-668, as amended, secs. 8, 9, 70 Stat. 1090; 16 U. S. C. 1001-1007. E. O. 10584, 19 F. R. 8725, 3 CFR 1954 Supp.

#### SUBPART A-POLICIES AND AUTHORITIES

§ 391.1 General. Watershed loans to local organizations are authorized under the Watershed Protection and Flood Prevention Act (Pub. Law 566, 83d Cong., as amended by Pub. Law 1018, 84th Cong.), hereafter referred to as the act. The Secretary of Agriculture is authorized by the act to give technical and financial help to local organizations in planning and carrying out works of improvement for protecting and developing the land and water resources in small watershed or subwatershed project areas. Local people acting through their own local organizations must take the initiative and full responsibility for starting small watershed projects.

(a) Definitions. (1) For Watershed loan purposes, the term "local organization" means a State or a department, agency, or political subdivision thereof, soil or water conservation district, irri-

gation district, drainage district, flood prevention or control district, municipal corporation, or similar agency having authority under State law to carry out, maintain and operate works of improvement, and to borrow any repay loans for the installation thereof.

(2) "Works of improvement" are defined as structural or land treatment measures needed in small watershed or subwatershed areas and included in a watershed work plan for (i) flood prevention to reduce floodwater, sediment, and erosion damage, or (ii) the conservation, development, utilization, and dispersed of water.

posal of water.
(3) A "watershed work plan" is a plant agreed upon by a local organization as the Soil Conservation Service for carr ing out, operating, and maintaining works of improvement for protecting as developing land and water resources a particular watershed or subwatersh area. It describes the watershed and problems and needs. It contains est mates of costs, proposed cost-sharing a rangements, responsibilities, and ec nomic justification for specific works improvement desired by local people f protection and improvement of th watershed. When approved, it is the basis for extending Federal, technic and cost-sharing assistance. It will used by the Farmers Home Administr tion when considering an application f a Watershed loan.

(4) A "watershed project" is a system of works of improvement in a watershed or subwatershed area of not more than 250,000 acres for flood prevention, irrigation, drainage, municipal water supply, or other water management purposes.

(b) Coordination of Soil Conservation Service and Farmers Home Administration responsibilities and activities. The Secretary of Agriculture assigned to the Farmers Home Administration responsibility for administering section 8 of the act relative to loans. The Soil Conservation Service is responsible for administering the other sections of the act. The Memorandum of Understanding entered into by the Soil Conservation Service and the Farmers Home Administration covers policies and methods coordinating these assigned responsibilities.

(c) Cost sharing. The act provides for sharing certain costs of installing works of improvement by the Federal Govern-

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ment and by local organizations. Under certain conditions, cost sharing and free engineering services are available for the items listed under § 391.5 (a) (1). No cost sharing is available to pay installation costs allocated to water storage for the purposes listed in § 391.5 (a) (2). Cost sharing arrangements will be included in the watershed work plan.

§ 391.2 Application for loans. Each local organization requesting a Watershed loan will make application by submitting a letter to the State Director of the Farmers Home Administration. The letter should give the address of the applicant, the name and location of the watershed, a brief description of the facilities to be installed with the loan, the estimated amount of the Watershed loan needed, and a brief statement about

the organization including an exact reference to, and citation of, the statute under which the applicant is, or will be, organized, and the statute or statutes which give the applicant authority and power to obtain the loan and repay it. The letter should be signed by the presiding officer if the group is incorporated, or by the members of the organizing committee if the group is not incorporated.

- (a) Upon receipt of an application, the State Director will consult with the State Conservationist of the Soil Conservation Service to ascertain the status of a watershed plan, the estimated cost of the proposed works to be installed with the loan, and any cost sharing which may be available to the organization. This information, the letter of application, and any other pertinent information the State Director has will be forwarded to the National Office with his comments and recommendations.
- (b) If the National Office determines that favorable consideration should be given to the application, it will provide further instructions and assistance for the development and submission of a loan docket. If it is determined that no further consideration should be given to the application, the National Office will advise the State Director why favorable action cannot be taken.
- § 391.3 Eligibility for loans. To be eligible for a Watershed loan, the local organization must:
- (a) Be a public or quasi-public organization such as a political subdivision of a State, a municipality or a drainage district, or similar organization with authority under State law to install, maintain, and operate works of improvement to be installed with the Watershed loan.
- (b) Be without sufficient funds and be unable to borrow funds on reasonable terms and conditions from private or cooperative credit sources to pay for needed works of improvement.
- (c) Have the legal capacity and organizational arrangements necessary for obtaining, giving security for, and raising revenues for repaying the loan and for operating and maintaining the facilities to be financed with the loan.
- (d) Sponsor, co-sponsor, or agree to participate in a watershed work plan which provides for the installation, operation, and maintenance of works of improvement.
- § 391.4 County Committee recommendations and comments. County Committee recommendations and comments will be obtained on each Watershed loan application.
- (a) Comments will be obtained from the County Committee in the county in which the applicant's principal place of business is located. When the watershed covers more than one county, recommendations and comments may be obtained from such of the other County Committees as the State Director deems desirable to have on issues such as the local sentiment and the need for the project.
- (b) The recommendations will cover, but need not be limited to, the community need for and interest in the proposed

works of improvement, local issues, and other items of a similar character which will be helpful to the approving official.

- § 391.5 Loan purposes. (a) Watershed loans may be made for the following purposes:
- (1) Installing, repairing, or improving works of improvement in the following categories:
- Facilities for the storage and conveyance of water to farms for irrigation.
- (ii) Drainage facilities in farm areas.
  (iii) Facilities for the storage or development, treatment, and conveyance of water in rural areas primarily for use on farms for farmstead, livestock, and orchard and crop spraying purposes.
- (iv) Other agricultural water management measures and practices for such purposes as the stabilization of annual streamflow, increasing the recharge of ground water reservoirs, and the conservation of existing water supplies by the control of undesirable vegetation such as salt cedars and willows.
- (v) Special land treatment measures, structures, or equipment which are primarily, though not exclusively, for flood prevention but will produce community benefits sufficient to justify the use of taxes or other revenues available to the local organization to install and maintain such measures, structures, or equipment, and to repay loans for that purpose. These include:
- (a) Observation towers, dwellings for fire guard personnel, tank trucks, and other equipment for fire prevention and control
- (b) Tree plantings and the establishment of other vegetative cover needed for the stabilization of critical runoff and sediment producing areas.
- (c) Minor structural and vegetative measures to stabilize stream channels and gullies.
- (d) On-farm measures such as level water retention terraces used to control runoff and sediment in lieu of down-stream flood prevention structures.
- (2) Installing, repairing, or improving water storage facilities, including outlet works for such purposes as municipal water supply, recreation, fish and wildlife improvement, and pollution abatement by stream-flow regulation and saline water intrusion control. A Watershed loan for a storage reservoir for municipal water supply may include funds for pipelines to convey the water from the reservoir to the existing municipal treatment facilities or water system.
- (3) The purchase of land or an interest therein for sites of rights-of-way upon which works of improvement will be located and associated costs such as the removal, relocation, or replacement of bridges, roads, railroads, pipelines, buildings, and fences.
- (4) The acquisition of a water supply or a water right. This may be acquired by purchase or by appropriation pursuant to local, State, and Federal laws. The loan may include funds for the purchase of land on which the water supply or water right is presently being used when the water supply or water right cannot be purchased without the land.
- (5) The hiring of, or contracting for, personal services such as the services of

engineers, attorneys, auditors, construction foremen and clerks needed for organizing the group, making engineering surveys, developing construction plans, administering construction contracts, and supervising the construction of works of improvement. Funds to pay costs incidental to loan closing, such as those incurred to obtain title evidence, clear titles, and to file or record lien instruments may be included in a loan.

- (6) The purchase of equipment and machinery needed by the local organization for construction, installation, and maintenance of planned works of improvement in the categories under § 391.5 (a) (1), provided the equipment is not available at reasonable rental cost or the cost of works of improvement will be lower as the result of such purchase.
- (7) To refinance debts of a local organization when all of the following conditions exist:
- (i) The indebtedness being refinanced was incurred in the installation or rehabilitation of works of improvement of the types for which loan funds could be advanced.
- (ii) The creditor(s) is unwilling to extend, subordinate, or modify the terms of the debts and any security instruments to provide a satisfactory basis for the loan.
- (iii) The amount to be advanced for refinancing is an incidental part of the loan being made.
- (b) Loan funds may not be used for: (1) Irrigation or drainage facilities for the primary purpose of bringing into production land which has not previously been in agricultural production; however, this will not preclude using funds to install facilities which result in the incidental conversion of some land from nonagricultural to agricultural production. Land in agricultural production shall be construed to refer to all land which has been cleared or substantially improved and is used for any farm crop, including pasture. It does not include woodland, brush, wildland, native range, swampland, or marshland unless such land was formerly in agricultural production and has since reverted to a condition of nonuse or lesser use.
- (2) Land treatment measures on individual farms except as provided in § 391.5(a) (1) (v).
- (3) Recreational facilities such as boat docks, picnic and lodging accommodations, golf courses, and other facilities of a similar character.
- (4) Water treatment plants and pipelines or other facilities for distributing water in urban, suburban, or other non-rural areas substantially developed for residential and commercial uses. When such facilities will be needed to make use of the stored water, and loan repayments will depend upon income derived from such use, the applicant must present evidence, before loan closing, that these facilities can be financed and installed as needed.
- (5) Electric generating, transmission, and distribution facilities.
- (6) Fish and wildlife facilities such as hatcheries, rearing ponds, and fences.
- (7) Paying costs allocated in a watershed work plan to structural measures for flood prevention.

- (8) Storm and sanitary sewers.
- (9) Drainage facilities primarily for nonrural areas.

\$ 391.6 Loan limitations. The total amount of principal outstanding for all Watershed loans for any one watershed project, whether made to one or more borrowers, shall not exceed \$5,000,000. However, a local organization sponsoring, co-sponsoring, or participating in more than one watershed project may receive a separate Watershed loan for each watershed project, provided the amount of each such separate Watershed loan to the local organization together with the amount of Watershed loans to other borrowers does not exceed \$5,000,000 for any one watershed project.

§ 391.7 Special requirements—(a) Water rights. Applicants under this program will be required to comply with applicable State and local laws and regulations governing appropriating, diverting, storing and using water, changing the place and manner of use of water, and in disposing of water. All of the rights of any landowner, appropriator, or user of water from any source shall be fully honored in all respects as they may be affected by facilities installed with Watershed loans. If, under the provisions of State law, notice of the proposed diversion or storage of water by the applicant may be filed, the applicant will be required to file such a notice. Even though such filing may be optional under State law, the record might be of value at some future time to protect the borrower's rights or priority to the use of water.

(b) Title requirements. Title clearance on real estate or interest in real estate to be taken as security for loans will be in accordance with applicable regulations governing Soil and Water Conservation loans to associations.

(c) Insurance. The applicant will obtain insurance coverage in the amounts and types specified by the Administrator of the Farmers Home Administration in his loan approval memorandum.

(d) Bonding. (1) Prior to the execution of construction contracts by the local organization, contractors shall furnish Surety Bonds to guarantee both

performance and payment.
(2) The local organization will provide Fidelity Bond coverage for the officials entrusted with the receipt and disbursement of its funds and the custody of any property. The amount of the bond will be at least equal to the maximum amount of money that the local organization will have on hand at any one time exclusive of loan funds deposited in a supervised bank account.

(3) The amount of coverage required in Surety and Fidelity Bonds will be specified by the Administrator in his loan approval memorandum.

§ 391.8 Terms of loans—(a) Repayment period. Loans will be scheduled for repayment within the shortest period consistent with the ability of the borrower to pay. In no instance will the repayment period exceed 50 years from the date when the principal benefits from works of improvement first become available. Ordinarily, installments will

be amortized and payments will be scheduled annually on January 1, starting with the first January following the date of loan closing or the end of any approved deferment period. There must be adequate evidence that income will be sufficient to meet all scheduled repayments.

(b) Deferred or partial payments. Deferred or partial payments may be scheduled for a period not to exceed the second January 1 after the date when the principal benefits from works of improvement first become available. Deferred or partial payments will be permitted only when:

(1) Repayments will be dependent upon the increased returns expected from planned works of improvement, or from the installation on individual farms of land development or other soil and water improvements essential for obtaining benefits from works of improvement to be installed with loan funds.

(2) The deferment or partial payment will not be used to permit the accelerated repayment of other debts, to make capital improvements, or to create operating reserves.

(3) The deferment or partial payment does not violate State or local laws affecting the creation and repayment of debts by the borrower.

(c) Interest. (1) Interest will begin with the date of the note or bond. When a loan is made in multiple advances, interest on the first advance will begin with the date of the note or bond and interest will begin on each subsequent advance on the date of the check

(2) The interest rate on loans will be the average rate, as determined by the Secretary of the Treasury, payable by the United States Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which a loan agreement is executed, which are neither due nor callable for redemption for 15 years from date of issue. The rate will be announced as of July 1 for each fiscal year, and this rate will prevail throughout the fiscal year. When a loan is approved, the interest rate for that particular loan will be the interest rate in effect for the fiscal year in which the loan agreement is executed and will not change during the life of the loan.

(d) Payments. (1) Each borrower may make prepayments in any amount at any one time.

(2) Payments will be applied first to interest accrued on the note to the date of the receipt of payment, and second to the principal balance on the note. If the regular payments plus any prepayments exceed the cumulative amount due on the note, the excess payments will be applied on next due installments except that loan refunds and proceeds from the sale of security property will be applied on the final unpaid installment(s).

§ 391.9 Security requirements. Watershed loans will be secured in a manner which will adequately protect the interests of the Government. Security requirements will be determined and made as a loan approval condition for each applicant. In general, however, bonds or other evidence of debt will be required that meet all statutory requirements per-

taining to their authorization, sale, and acceptance and, unless the loan is approved with security of a pledge of revenues only, one or more of the following types of security will be required:

(a) A statutory tax or mortgage lien.
(b) A first lien on real and personal property, exclusive of easements, rights-of-way, and water rights owned by the applicant at the time the loan is approved. If a first lien is not obtainable, a junior lien may be taken.

(c) A first lien on property acquired with loan funds exclusive of easements, rights-of-way, and water rights.

(d) A lien on the interest of the applicant in all easements, rights-of-way, and water rights used in connection with works of improvement. In some instances, such easements or rights-of-way will involve private lands, and will not be derived pursuant to State Statutes authorizing the installation of works of improvement across lands of other owners. In such instances, local organizations will obtain partial releases or consents to such easements and rightsof-way from holders of outstanding liens which are disclosed by lien searches covering a period of at least 10 years prior to the execution of the easements and rights-of-way.

(e) Assignment of income.

§ 391.10 Approval of loans. (a) State Directors will be authorized to approve Watershed loans to local organizations on an individual case basis after review by the National Office of loan dockets and related watershed work plans, and State Directors' recommendations. Following the review, the Administrator will issue a memorandum to the State Director (1) authorizing the approval of the loan, (2) specifying conditions that must be met by the local organization. and (3) containing any special instructions needed for closing the loan. When the State Director approves a loan, he will send a memorandum of approval to the County Supervisor. The memorandum will include the conditions specified by the Administrator that must be The original of the memorandum will be delivered to the applicant by the County Supervisor.

(b) The Farmers Home Administra-tion will not approve a Watershed loan until after the approval of a watershed work plan, which provides for the works of improvement to be financed with the loan. Watershed work plans are approved by the Soil Conservation Service and, oif necessary, by Committees of the Congress. Congressional Committee approval is required when a watershed work plan involves an estimated Federal contribution to construction costs in excess of \$250,000, or includes any structure which provides more than 2500 acre-feet of total water storage capacity. If there is an urgent need to start construction, the loan docket may be prepared and submitted prior to the final approval of the watershed work plan by the Soil Conservation Service. Farmers Home Administration will advise the local organization of work that needs to be done prior to loan closing; however, no loan commitment will be made until approval of the watershed work plan.

§ 391.11 Planning advances. A portion, not to exceed the lesser of five percent or \$50,000, of the estimated amount of a Watershed loan may be advanced to the local organization, prior to loan closing, to pay for technical services and other expenses incidental to obtaining a Watershed loan. Such advances will be scheduled for repayment over a period of not to exceed five years except that at the time the total Watershed loan is closed, any unpaid portion of a planning advance may be rescheduled for repayment corresponding with the amortization schedule for the loan. These advances may be made provided all of the following conditions exist:

(a) The watershed work plan has

been approved.

(b) A loan approval memorandum has been issued by the National Office and the applicant has agreed in writing to meet the conditions set forth therein.

- (c) The local organization lacks, or cannot raise, funds of its own to pay for such services or is unable to arrange for the payment of such services and supplies until after the loan is closed.
- (d) The local organization is legally organized and has the necessary powers to obligate itself for the advance of funds.
- (e) The local organization either has or will raise income sufficient to meet scheduled payments on the advance.
- (f) The advance can be secured in the manner specified in § 391.9.
- § 391.12 Multiple loan advances. Watershed loan may be disbursed in multiple advances in accordance with the need of the local organization for funds, as shown by a construction schedule approved by the Soil Conservation Service.
- § 391.13 Loan closing. Except for planning advances, no Watershed loan will be closed until:
- (a) The Soil Conservation Service has scheduled the construction of works of improvement for which a loan, or any part thereof, is to be advanced.
- (b) The local organization has met all requirements for receiving Federal assistance in the installation and operation of the scheduled works of improvement and the Soil Conservation Service has obligated funds and is ready to make payments to the local organization to cover the Federal share, if any, of installing such works of improvement.
- (c) The local organization is ready to use the loan funds and has either met or will comply with those loan approval conditions and requirements in closing instructions which are to be completed on or before the day of loan closing.
- § 391.14 Use of and accountability for loan funds. Each local organization will be required to use loan funds in accordance with its agreements with the Government. Watershed loan funds and any funds furnished by the local organization to supplement the loan will be deposited in a supervised or special bank account and will not be commingled with other funds of the local organization.
- (a) The borrower may be required to deposit Watershed loan funds in a supervised bank account on the date of loan closing in accordance with Part 303 of this Chapter.

- (b) In lieu of a supervised bank account, the borrower may be permitted to deposit loan funds in a special bank account upon which withdrawals will be made by checks signed by two of the borrower's officials who are covered by a Fidelity Bond obtained in accordance with § 391.7 (d) (2).
- (c) Preferably, loan funds should be deposited in banks covered by Federal Deposit Insurance. If the bank is not covered by Federal Deposit Insurance, or the amount deposited in a bank covered by Federal Deposit Insurance is not fully protected, the bank shall place in escrow account sufficient obligations of the United States to cover the amount of loan funds not protected.
- (d) Funds deposited in joint bank accounts or in special bank accounts shall be pledged to the United States of America as security for the loan until expended for authorized purposes under a deposit agreement approved by the Farmers Home Administration.
- (e) As long as any loan funds remain in a bank account, such account shall be subject to inspection by the Farmers Home Administration and to such periodic audits as the Farmers Home Administration may require. The borrower shall furnish to the County Supervisor for examination each bank statement.
- (f) Payments to contractors or for other expenses incurred in the planning and construction of works of improvement will be made by checks drawn on a supervised or special bank account. Payments may be made in a lump sum at the completion of a job, or partial payments may be made as work progresses in accordance with partial payment provisions of construction contracts or other prearranged agreements with suppliers of materials or services. All payments for construction items will be based upon Form SCS-49a, "Contract Payment Estimate," prepared in an original and two copies by the borrower and approved by the Soil Conservation Service. Payments for personal services will be based upon periodic payrolls, and payments for other purposes such as title clearance and miscellaneous supplies will be based upon invoices or bills.
- (1) If payments are to be made from a supervised bank account, the borrower will present Form SCS-49a, a periodic payroll, and an invoice or a bill, as appropriate, to the County Supervisor before checks are countersigned.
- (2) If payments are to be made from a special bank account, the borrower will make a report to the County Supervisor covering such period as agreed upon by the borrower and the Farmers Home Administration, showing the payee, amount, and purpose of each check drawn during the period. The borrower will attach to the report a copy of the payroll, Form SCS-49a, receipts, or receipted bills or invoices for the checks issued. The receipts and receipted bills or invoices will be returned to the borrower.
- § 391.15 Accounts and records of local organization. Borrowers shall establish and maintain such accounts and other records pertaining to transactions related to the installation, operation, and maintenance of works of improvement as may be required by the Farmers Home

Administration. These accounts and records shall be kept in a form and manner satisfactory to the Farmers Home Administration and shall be open to inspection and audits by representatives of the Farmers Home Administration during the borrower's regular business hours. The borrower shall prepare and furnish to the County Supervisor at intervals designated by the State Director such written reports as may be required by the Farmers Home Administration.

Dated: January 8, 1958.

[SEAL]

K. H. HANSEN, Administrator,

Farmers Home Administration. [F. R. Doc. 58-294; Filed, Jan. 13, 1958; 8:50 a. m.]

[FHA Instruction 447.2]

PART 391-WATERSHED LOANS

PROCESSING AND SERVICING

Part 391 of Title 6, Code of Federal Regulations, is amended by the addition of a new Subpart B as follows:

Subpart B-Processing and Servicing

Sec. 391.21 General.

391.22 Application for loan. 391.23

County Committee Recommendations.

391.24 Preparation, assembly, and submission of loan dockets.

391.25 Approval of loans.

AUTHORITY: §§ 391.21 to 391.25 issued under R. S. 161, 5 U. S. C. 22. Interpret or apply secs. 1-8, 68 Stat. 666-668, as amended, secs. 8, 9, 70 Stat. 1090; 16 U. S. C. 1001-1007. E. O. 10584, 19 F. R. 8725, 3 CFR 1954 Supp.

#### SUBPART B-PROCESSING AND SERVICING

- § 391.21 General. This subpart and regulations contained in Part 354 of this chapter will be used as a guide for processing Watershed loans. These regulations will be supplemented on an individual loan basis by special instructions. approval memorandums, and closing instructions. To the extent possible, the National Office of the Farmers Home Administration will provide technical assistance to State Directors for developing and submitting loan dockets. Watershed loans will be serviced in accordance with regulations contained in Parts 361 and 362 of this chapter applicable to Soil and Water Conservation loans to associations. State Directors will utilize the authorities contained in subparagraphs (3), (6), (7), (8), (11), (12), and (14) of § 361.43 (a) of this chapter only with the prior approval of the National Office on an individual case basis. The Administrator may prescribe such special instructions on a case basis which he deems necessary for making and servicing of Watershed loans.
- § 391.22 Application for loan. Loan applications will be processed in accordance with the provisions of § 391.2.
- § 391,23 County Committee recommendations. County Committee recommendations will be obtained on each application in accordance with the provisions of § 391.4.
- § 391.24 Preparation, assembly, and submission of loan dockets. (a) The

preparation of a loan docket will not be started until the National Office has reviewed the application letter and has issued to the State Director such special instructions as may be needed, as provided in § 391.2.

(b) If the National Office determines that favorable consideration should be given to the application, the County Supervisor will proceed with the assembly of the loan docket and will be responsible for its submission to the State Director.

(c) The applicant, with the advice and guidance of Farmers Home Administration personnel will:

(1) Prepare and execute Form FHA-28, "Association Proposal and Request for Funds."

(2) Supply or assist in obtaining information that is required by Farmers Home Administration personnel in preparing the narrative report on the application that will become a part of the loan docket.

(3) Prepare all documents that may have been required by the National Office in previous correspondence regarding the particular loan.

(d) The completed docket together with the recommendations of the State Director will be forwarded to the National Office.

§ 391.25 Approval of loans. The Administrator will authorize the approval of loans and issue any special instructions needed for completing the processing of loans. When the State Director exercises the approval authority delegated to him by the Administrator, he will issue a memorandum of approval to the County Supervisor pursuant to § 391.10. When authorization cannot be given for the approval of a loan, the Administrator will notify the State Director, who in turn will notify the applicant.

Date: January 8, 1958.

[SEAL]

.] K. H. HANSEN,
Administrator,
Farmers Home Administration.

[F. R. Doc. 58-293; Filed, Jan. 13, 1958; 8:50 a.m.]

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Loans, Purchases, and Other Operations

[1957 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 7, Grain Sorghums]

> PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1957-CROP GRAIN SORGHUMS LOAN AND PURCHASE AGREEMENT PRO-GRAM

#### AVAILABILITY OF PRICE SUPPORT

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 22 F. R. 3216, 3379, 5975, 6961, 8470, 8874, 8973 and 10679 containing the specific requirements for the 1957-crop

grain sorghums price support program are hereby amended in § 421.2427 (d) to provide that loans and purchase agreements will be available from the time of harvest through February 28, 1958. The amended paragraph reads as follows:

§ 421.2427 Availability of price support. \* \* \*

(d) When to apply. Loans and purchase agreements will be available from the time of harvest through February 28, 1958 and the applicable documents must be signed by the producer and delivered to the office of the county committee not later than such date. Applicable documents include the Producer's Note and Loan Agreement for warehouse-storage loans, the Producer's Note and Supplemental Loan Agreement and the Commodity Chattel Mortgage for farm-storage loans, and the Purchase Agreement for purchase agreements.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interprets or applies sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1053, 1054, as amended, sec. 308, 70 Stat. 206; 15 U. S. C. 714c, 7 U. S. C. 1447, 1421)

Issued this 9th day of January 1958.

[SEAL] WALTER C. BERGER,

Executive Vice President,

Commodity Credit Corporation.

[F. R. Doc. 58-291; Filed, Jan. 13, 1958; 8:50 a.m.]

# TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I-Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF JUSTICE

Effective upon publication in the Federal Register, paragraph (q) (1), (2), and (3) is added to § 6.308 as set out below.

§ 6.303 Department of Justice. \* \* \* (q) Civil Rights Division. (1) The First Assistant to the Assistant Attorney General.

(2) Second Assistant to the Assistant Attorney General.

(3) One confidential assistant (private secretary) to the Assistant Attorney

(R. S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U. S. C. 631, 633)

United States Civil Service Commission,

[SEAL] WM. C. HULL, Executive Assistant.

[F. R. Doc. 58-271; Filed, Jan. 13, 1958; 8:47 a. m.]

# PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

GENERAL SERVICES ADMINISTRATION

Effective upon publication in the FEDERAL REGISTER, paragraph (a) (9) of § 6.333 is revoked and paragraph (a) (3),

(7) and (11) is amended as set out below.

§ 6.333 General Services Administration—(a) Office of the Administrator.

(3) One Administrative Assistant to the Administrator.

(7) One Special Assistant to the Administrator (Congressional and Public Affairs).

(11) One Confidential Assistant to the Special Assistant to the Administrator (Congressional and Public Affairs).

(R. S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U. S. C. 631, 633)

United States Civil Service Commission,
Wm. C. Hull,
Executive Assistant.

[F. R. Doc. 58-270; Filed, Jan. 13, 1958; 8:47 a. m.]

[SEAL]

### TITLE 7—AGRICULTURE

Chapter VII — Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture.

PART 727-MARYLAND TOBACCO

ANNOUNCEMENT AND APPORTIONMENT OF NATIONAL MARKETING QUOTA FOR 1958-59 MARKETING YEAR

§ 727.901 Basis and purpose. (a) Sections 727.901 and 727.902 are issued to establish the reserve supply level and the total supply of Maryland tobacco for the marketing year beginning October 1, 1957; to announce the amount of the national marketing quota for Maryland tobacco for the marketing year beginning October 1, 1958; and to apportion such quota among the several States. The findings and determinations by the Secretary contained in § 727.902 have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from Maryland tobacco producers and others as provided in a notice (22 F. R. 8187) given in accordance with the Administrative Procedure Act (5 U.S.C.

(b) Since Maryland tobacco growers are making plans for their 1958 farming operations and will soon be preparing plant beds and purchasing fertilizer and other materials, they should be informed at the earliest possible date of the 1958 farm marketing quotas and acreage allotments for their farms. Accordingly, it is hereby found that compliance with the 30-day effective date provision of the Administrative Procedure Act is impracticable and contrary to the public interest, and the announcement and apportionment of the national marketing quota for Maryland tobacco for the 1958-59 marketing year contained herein shall become effective upon the date of filing with the Director, Division of the Federal Register.

§ 727.902 Findings and determinations with respect to the amount of the national marketing quota for Maryland tobacco for the marketing year beginning October 1, 1958 1—(a) Reserve supply level. The reserve supply level for Maryland tobacco is 99,600,000 pounds, calculated as provided in the Agricultural Adjustment Act of 1938, as amended, from a normal year's domestic consumption of 27,300,000 pounds and a normal year's exports of 12,000,000 pounds.

(b) Total supply. The total supply of Maryland tobacco for the marketing year beginning October 1, 1957, is 102,-400,000 pounds, consisting of estimated carryover of 71,000,000 pounds and estimated 1957 production of 31,400,000 pounds.

(c) Carryover. The estimated carryover of Maryland tobacco on January 1, 1959 is 66,200,000 pounds calculated by subtracting the estimated disappearance for the marketing year beginning October 1, 1957 of 36,200,000 pounds from the total supply of such tobacco.

(d) National marketing quota. The amount of Maryland tobacco which will make available during the marketing year beginning October 1, 1958, a supply of Maryland tobacco equal to the reserve supply level of such tobacco is 33,400,000 pounds, and a national marketing quota of such amount is hereby announced. It is determined, however, that a national marketing quota in the amount of 33,400,000 pounds would cause undue restriction of marketings during the 1958-59 marketing year and such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for Maryland tobacco in terms of the total quantity of tobacco which may be marketed during the marketing year beginning October 1, 1958. is 40,100,000 pounds.

(e) Apportionment of the quota. The national marketing quota is hereby apportioned among the several States pursuant to section 313 (a) of the Agricultural Adjustment Act of 1938, as amended, and converted into State acreage allotments in accordance with section 313 (g) of the act as follows:

	Acreage
State:	allot ment
Maryland	48, 277
Virginia	33
Delaware	
Reserve 1	60

<sup>1</sup>Acreage reserved for establishing allotments for new farms.

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply Secs. 301, 312, 313, 52 Stat. 38, as amended; 46 as amended; 47 as amended; 7 U. S. C. 1301, 1312, 1313)

Done at Washington, D. C., this 9th day of January 1958. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

True D. Morse, Acting Secretary.

[F. R. Doc. 58-292; Filed, Jan. 13, 1958; 8:50 a.m.]

#### TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 215]

Part 608—Restricted Areas

RESTRICTED AREA ALTERATIONS

The restricted area alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy, and the Air Force,

through the Air Coordinating Committee, Airspace Panel, and are adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act is not required. Part 608 is amended as follows:

1. Section 608.31, the Grand Marais, Minnesota, Temporary Area (R-187T) is added to read:

Name and location	Description by geographical co-	Designated	Time of designa-	Controlling agency
(chart)	ordinates	altitudes	tion	
Grand Marats, Min- nesota, temporary restricted area (R- 187T) (Duluth, Lake Superior).	"Beginning at latitude 47°04′00", longitude 90°35′00"; East to latitude 47°06′00", longitude 83°01′00"; North to latitude 47°47′15", longitude 89°10′00"; West to latitude 47°50′00", longitude 89°46′00"; Southeast to latitude 47°28′00", longitude 89°30′00"; Southwest to point of beginning."	Surface to 70,000 feet.	Continuous	Commander 343d Fighter Group Defense, Duluth, Minnesota.

This amendment shall become effective January 14, 1958, through April 30, 1958.
2. Section 608.61, the Big Delta, Alaska, Temporary Area (R-346T) is added to read:

Name and location	Description by geographical co-	Designated	Time of designa-	Controlling agency
(chart)	ordinates	altitudes	tion	
Big Delta, Alaska temporary re- stricted area (R-346T) (WAC 77 and 117).	"Beginning at latitude 64°03', longitude 147°50'; latitude 64°10', longitude 147°53'; latitude 64°10', longitude 147°53'; latitude 63°47', longitude 147°04.5'; latitude 63°51.5', longitude 147°56'."	Surface to un- limited.	Daylight hours only.	Commander 11th Air Division (Defense), Ladd AFB, Alaska.

This amendment shall become effective January 14, 1958, through March 15, 1958.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

[SEAT.]

William B. Davis, Acting Administrator of Civil Aeronautics.

JANUARY 9, 1958.

[F. R. Doc. 58-297; Filed, Jan. 13, 1958; 8:50 a. m.]

# TITLE 21-FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

Subchapter B-Food and Food Products

PART 37—FISH; DEFINITIONS AND STAND-ARDS OF IDENTITY; STANDARDS OF FILL OF CONTAINER

ORDER POSTPONING EFFECTIVE DATE OF PORTION OF DEFINITION AND STANDARD OF IDENTITY FOR CANNED TUNA

In the matter of fixing and establishing a definition and standard of identity for canned tuna:

Effective as of the date of publication of this order in the Federal Register, that portion of the order published in the Federal Register of February 13, 1957 (22 F. R. 892), concerning the effective date of the identity standard for canned tuna, insofar as it concerns the labeling provisions set forth in § 37.1 (h), is hereby revoked; and: It is

ordered, That the effective date of the aforesaid paragraph be postponed from February 13, 1958, until a final ruling shall have been made as a result of the findings determined at the public hearing to be held in accordance with the notice published in the Federal Register of December 28, 1957 (22 F. R. 10964).

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 21 U. S. C. 341, 371)

Dated: January 7, 1958.

[SEAL] GEO. P. LARRICK, Commissioner of Food and Drugs.

[F. R. Doc. 58-257; Filed, Jan. 13, 1958; 8:45 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEM-ICALS IN OR ON RAW AGRICULTURAL PRODUCTS

RESIDUES OF PYRETHRINS AND PIPERONYL BUTOXIDE ON PEANUTS FROM APPLICATION DURING STORAGE

No objections having been filed to the proposal published in the Federal Register of November 22, 1957 (22 F. R. 9367) that the wording of the present tolerances for pyrethrins and piperonyl butoxide be changed so as to specify determination of the residues of these chemicals on the peanuts without shell, and no request having been received for referral of the proposal to an advisory committee: It is ordered, That the regulations for tolerances for residues of pesticide chemicals in or on raw agricul-

<sup>&</sup>lt;sup>1</sup>Rounded to the nearest tenth of a million pounds.

tural commodities (21 CFR Part 120; 21 CFR, 1956 Supp., 120.127, 120.128) be amended in the following respects:

- 1. In § 120.127 Tolerances for residues of piperonyl butoxide, paragraph (b) is amended by inserting after the word "peanuts" the parenthetical phrase "(determined on the nuts with shell removed)".
- 2. In § 120.128 Tolerances for residues of pyrethrins, paragraph (b) is amended by inserting after the word "peanuts" the parenthetical phrase "(determined on the nuts with shell removed)".

This action is taken pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408 (b), (e), 68 Stat. 511, 514; 21 U. S. C. 346a (b), (e)), and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 120.29).

Any person who will be adversely affected by the foregoing order may, at any time prior to the thirtieth day from the effective date thereof, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D. C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by this order, specify with particularity the provisions of the order deemed objectionable, and reasonable grounds for the objections, and request a public hearing on the objections. Objections shall be filed in quintuplicate and may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall be effective upon publication in the Federal Register.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies sec. 408, 68 Stat. 511; 21 U. S. C. 346a)

Dated: January 7, 1958.

[SEAL] GEO. P. LARRICK, Commissioner of Food and Drugs.

[F. R. Doc, 58-272; Filed, Jan. 13, 1958; 8:47 a. m.]

# TITLE 24—HOUSING AND HOUSING CREDIT

Chapter II — Federal Housing Administration, Housing and Home Finance Agency

Subchapter F—Rehabilitation and Neighborhood Conservation Housing Insurance

PART 263—MULTIFAMILY REHABILITATION INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE

CLASSIFICATION OF MORTGAGORS

Section 263.9a is amended by adding a new paragraph (c) to read as follows:

§ 263.9a Classification of mortgagors.

(c) Private cooperative ownership mortgagors. Subject to such requirements as the Commissioner may prescribe a mortgagor may be a nonprofit cooperative ownership housing corporation or trust, the permanent occupancy of the dwellings of which is restricted to the members of such corporation or to the beneficiaries of such trust.

(Sec. 211, 52 Stat. 23; 12 U. S. C. 1715b. Interprets or applies sec. 220, 68 Stat. 596, as amended; 12 U. S. C. 1715k)

Issued at Washington, D. C., January 7, 1958.

[SEAL] NORMAN P. MASON, Federal Housing Commissioner.

[F. R. Doc. 58-260; Filed, Jan. 13, 1958; 8:45 a. m.]

# TITLE 47—TELECOMMUNI-CATION

# Chapter I—Federal Communications Commission

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

IDENTIFICATION AND CHANGES IN EQUIPMENT; CORRECTION

In the matter of amendment of §§ 2.521, 2.522, and 2.540 of the Commission's rules and regulations to effect certain-editorial changes therein.

The Commission's Order of December 24, 1957 in the above-entitled matter (published in the FEDERAL REGISTER December 31, 1957 at page 11078) is amended to correct Item 4 to read as follows:

- 4. Amend § 2.540 (g) by changing the text thereof to read as follows:
- (g) Users shall not modify their own equipment except as provided in paragraphs (d) or (e) of this section, as applicable.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; sec. 5, 66 Stat. 713; 47 U. S. C. 303, 155)

Federal Communications
Commission,

· [SEAL]

MARY JANE MORRIS, Secretary.

[F. R. Doc. 58-275; Filed Jan. 13, 1958; 8:47a.m.]

[Public Notice B; FCC 58-31]

PART 3-RADIO BROADCAST SERVICES

USE OF TELEVISION TEST SIGNALS

JANUARY 8, 1958.

A rule making proceeding (Docket No. 11986) is outstanding for the purpose of considering the adoption of a standard test signal to be transmitted by television

broadcast stations. The time for filing comments in this proceeding was recently extended from January 15, 1958, to June 13, 1958.

When the Commission released its Notice of Proposed Rule Making in the proceeding referred to above, it issued a Public Notice (FCC 57–342) on April 4, 1957, pointing out that it would be helpful if during the course of the proceeding television stations were authorized, without further specific authority, to transmit test signals during programming. The Commission noted that such test transmissions could be employed for the purpose of developing and testing the feasibility of the particular method used and would be helpful in the preparation of comments and data in the rule making proceeding.

Station licensees were cautioned, however, that the specifications of any test signal which may be adopted would be determined after the completion of the rule making proceeding, and that equipment employed under the test authorization may become obsolete as a result of the specifications finally adopted. The Commission provided, further, that the transmission of test signals during program transmissions shall not interfere with synchronization nor degrade the quality of picture reception, with minor departures from signal specifications prescribed by the rules permitted.

Since the time for filing comments in the television test signal rule making proceeding was recently extended to June 13, 1958, television broadcast stations are authorized to continue to conduct test transmissions in accordance with the Public Notice of April 4, 1957, for the period ending October 3, 1958. Stations originating test signals pursuant to this authorization are requested to notify the Commission.

Note: This Public Notice affects § 3.682.

Adopted: January 8, 1958.

Federal Communications Commission,

[SEAL] MARY JANE MORRIS,

Secretary.

[F. R. Doc. 58-276; Filed, Jan. 13, 1958; 8:47 a.m.]

# TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

#### Correction

In F. R. Doc. 58-147, appearing at page 163 of the issue for Thursday, January 9, 1958, the following change should be made:

In the next to last line of § 212.7 (b), the word "cost" should read "course."

# PROPOSED RULE MAKING

Fish and Wildlife Service I 50 CFR Part 46 ]

ALASKA WILDLIFE PROTECTION

NOTICE OF PROPOSED RULE MAKING

Pursuant to section 4 (a) of the Administrative Procedure Act, approved June 11, 1946 (60 Stat. 238), notice is hereby given:

That under authority contained in section 9 of the Alaska Game Law of July 1, 1943, as amended (48 U.S. C. 198), the Secretary of the Interior proposes to adopt the following amendments to the regulations under the statute:

- 1. Section 46.51 General provisions needs rephrasing in order to make it clear that a fur dealer may purchase or sell without a license or permit the parts and products of game animals, game birds and game fishes designated in the several paragraphs of this section.
- 2. Section 46.51 (g) of the regulations contains a typographical error. reference in § 46.51 (g) should be § 46.161 instead of § 46.151.
- 3. It is also deemed advisable to add a new paragraph to § 46.51 to make it clear that game birds reared in captivity under appropriate permits may be purchased from propagators for use as food without the necessity of obtaining a permit. Specific provisions on the point were formerly a part of the regulations but were deleted when the regulations were revised in 1956 in the belief that purchases and sales of migratory waterfowl, the only species of game bird then being reared in Alaska for sale as food, were adequately covered by the regulations under the Migratory Bird Treaty Act (50 CFR Part 6). Some misunderstanding has since developed and it appears desirable to include provisions which will make it clear that the carcasses of migratory game birds and other game birds reared in captivity under appropriate permits can be purchased from the propagators of such birds for use as food by persons who themselves do not have permits.
- 4. The Alaska Game Commission has advised that when submitting recommendations for the amendments adopted on June 17, 1957, Unit 24 was inadvertently omitted from the schedule for black bear (§ 46.201).
- 5. In § 46.201 the word "glacier" is incorrectly spelled in the center heading "Black Bear (including its brown, blue, or glacial [sic] bear color variations)."
- 6. The Alaska Game Commission further advises that information received as a result of studies conducted by Bureau personnel subsequent to their recommendations for regulations adopted on June 17, 1957, shows an approximate 100 percent increase in the beaver population in a portion of Unit 17. This area, as described in the beaver schedule (§ 46.-251), is presently closed to the taking of beaver. In view of the current informa-

DEPARTMENT OF THE INTERIOR open season and bag limit of 15 per year is justified for the 1958 season and recommends adoption of the necessary amendment to the regulations. Commission further points out that the adoption of such regulation will be economically timely for the various groups. principally natives, in the affected area since the past summer commercial fishing season was not productive as in normal years. The beaver schedule (§ 46 .-251) will, therefore, be amended to open this area to the taking of beaver from February 1, 1958, or the effective date of the amendment, whichever is later, to March 31, 1958, with a bag limit of 15 a year.

The proposed regulations referred to above are to be effective on publication in the Federal Register and will read as follows:

- 1. The introductory paragraph of § 46.51 is amended to read as follows: "Subject to the restrictions and limitations imposed by this section purchases or sales of the following designated parts or products of game and fur animals, game birds, and game fishes may be made without permit or license by any person: Provided, That dealers in furs may not purchase or sell the skins of fur animals without a valid fur dealer's license."
- 2. Paragraph (g) of § 46.51 is amended correct the reference therein to "§ 46.151" to read "§ 46.161".
- 3. Section 46.51 is further amended to include an additional paragraph reading as follows:
- (h) Game Birds. Any person may purchase for consumption in his own household the carcasses of game birds (as defined in § 46.1) which have been reared in captivity in conformity with the conditions and restrictions imposed by permits issued pursuant to § 46.161 and a keeper of a hotel, restaurant, or boarding house, or a dealer in meat or game may purchase the carcasses of such birds for sale or service to their patrons: Provided. That the head and feet must remain attached to such carcasses at all times prior to preparation for actual consumption: Provided further, That the carcasses of any game birds so purchased by a keeper of a hotel, restaurant, or boarding house, or a dealer in meat or game must be accompanied by an invoice or bill of sale showing the names and addresses of the buyer and seller, date of sale, and the total number of each species of game birds in each lot: Provided further, That such invoices or bills of sale must be kept on file for a period of 6 months from the date of the respective sales and shall be made available for inspection at all reasonable times by any person authorized to enforce the regulations in this part.
- 4. The schedule contained in § 46.201 relating to "Black bear (including its brown, blue or glacier bear color variations)" is amended to include under the headings "Species and Units," "Open tion, the Commission has found that an Season," and "Bag Limits" the following

in the respective order named above: Unit 24. No closed season, 3 a year.

5. The schedule contained in § 46.251 relating to "beaver" is amended to include under the headings "Species and Units," "Open Season," and "Bag Limits" the following in the respective order named above: That portion of Unit 17 draining into Bristol Bay south of 60° N. latitude, February 1, 1958, or effective date of amendment, whichever is later, 15 a year.

Interested persons are hereby given an opportunity to participate in preparing the regulations for issuance as set forth by submitting their views, data, or arguments in writing to Mr. Daniel H. Janzen, Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D. C. To assure full consideration of such communications, they must be received in the Bureau of Sport Fisheries and Wildlife not later than 30 days from the date this notice appears in the FEDERAL REGISTER.

Dated: January 7, 1958.

ROSS LEFFLER. Assistant Secretary of the Interior.

[F. R. Doc. 58-258; Filed, Jan. 13, 1958; 8:45 a. m.1

### DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 978]

[Docket No. AO-184-A16]

MILK IN NASHVILLE, TENNESSEE, MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S. C. 601 et seg.). and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Nashville, Tennessee, on July 16-19, 1957, pursuant to notice thereof issued on June 25, 1957 (22 F. R.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on November 12, 1957 (22 F. R. 9111), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues on the record of the hearing relate to:

- 1. Marketing area.
- 2. Class II price.
- 3. Classification of cottage cheese, egg nog and ice cream.
- 4. Classification and accounting for dumped milk.

- 5. Classification of sour cream received from plant under another order.
  6. Location differentials.
- 7. Miscellaneous and conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. Marketing area. The marketing area should be expanded to include the territory within the boundaries of Rutherford and Cheatham counties, Tennessee.

Handlers regulated under the terms of the Nashville order proposed that the marketing area, which now consists of the territory within Davidson County, be expanded to include the territory within the boundaries of the Tennessee counties of Cheatham, Rutherford, Bedford, Coffee, Robertson, and Montgomery; and the entire territory within the boundaries of the Fort Campbell Military Reservation.

Producers delivering to presently regulated handlers neither supported nor opposed the expansion, but were proponents of specific amendments to the order should the marketing area be expanded.

In Bedford County, there are four dealers distributing milk. Two of these dealers are handlers regulated under the Nashville order and distribute approximately half of the total milk sales in the county. One of these regulated handlers also operates an unregulated plant at Shelbyville in Bedford County. The plant at Shelbyville obtains approximately half of the milk needed for its fluid sales from the regulated affiliate plant at Nashville.

The Shelbyville plant has been paying a blend price based on classification of milk in the plant and the Nashville order Class I price minus 6 cents. This deduction is equivalent to the marketing service deduction under the order. An operator with plants at Tullahoma and Lewisburg accounts for about 10 percent of the milk distribution in Bedford County. This dealer pays farmers base and excess prices. During the first half of 1957, such base prices were at approximately the same level as the average of producer prices paid by Nashville handlers. The excess prices are based on prices obtained for milk transferred to manufacturing plants. This operator, from time to time, has purchased supplemental supplies from Nashville handlers. He buys milk from farmers in areas where some Chattanooga and Alabama handlers also buy milk.

In Coffee County, no Nashville order handler has fluid distribution. The unregulated affiliate plant at Shelbyville accounts for about a fourth of the business in the county. The previously mentioned plant at Tullahoma, and another unregulated plant at Manchester, have the major share of the business. The plant at Manchester has paid prices in line with the average producer price of Nashville handlers.

Fort Campbell occupies an area comprised of parts of Montgomery and Stewart Counties, Tennessee, and Christian

and Trigg Counties, Kentucky. The fluid sales at Fort Campbell amount to about 20,000 pounds per day on a contract basis, and there are other sales on routes within the reservation. The contract rusiness has been held, in recent years, mainly by unregulated plants at Evansville, Indiana, Owensboro, Kentucky, and Bowling Green, Kentucky. A third unregulated plant at Clarksville, Tennessee, has had a minor share of the contract business. During the summer of 1956, a handler under the Paducah order held a major contract during the period of seasonally lowest Class I prices under that order.

Nashville handlers have not, in recent years, participated in the contract sales at Fort Campbell, and have had a minor share of the route sales within the reservation.

The plants at Evansville, Indiana, and at Owensboro and Bowling Green, Kentucky, which sell to Fort Campbell, obtain their milk from members of two cooperative associations. These associations joined the unregulated dealers in opposing the area expansion which would involve the plants to which they sell. They maintained that if these plants were regulated under the terms of the Nashville order, they would be forced to abandon their present pricing and marketing arrangement, thus creating hardship and instability among members.

One of these associations has approximately 824 dairy farmers who participate in a market-wide pooling arrangement based on the utilization of several dealers located in and around Evansville, Indiana, and Owensboro, Kentucky. These dealers pay the association a Class I price, in each month of the year, which is \$1.25 over the higher of Mid-west condensery prices or a butter-powder formula. These dealers pay a Class II price consisting of the average paying price of local manufacturing plants, plus 20 cents. Classification is similar to that of the Nashville order, and utilization of the dealers is audited by an independent agency. During the months of April, May, June, and July, when the Class I differential under the Paducah order is 70 cents, the price for milk going to Fort Campbell is reduced to the level of the Paducah price. The association operates a receiving station at Russellville, Kentucky, which functions as a supplemental supply plant serving the plants at Evansville, Indiana, and Owensboro, Kentucky, and as the disposal point for surplus milk.

Another association, which supplies milk to the Bowling Green dealer who has sales at Fort Campbell, has 89 members and sells milk to two other dealers in the Bowling Green area. This association also opposed the inclusion of Fort Campbell in the marketing area. The price paid for milk for fluid use in the Bowling Green area is the same as the prevailing Class I price in the Nash-ville market.

In Montgomery County, outside Fort Campbell, about half of the sales are made by two Nashville handlers and the remainder mostly by the unregulated plants at Evansville, Indiana, Owensboro, Kentucky, and Clarksville, Tennessee.

In Robertson County, sales are made by two Nashville order handlers, by the unregulated plants at Evansville, Indiana, and Owensboro, Kentucky, and a plant at Springfield, Tennessee. Sales in Fort Campbell and in Tennes-

Sales in Fort Campbell and in Tennessee counties by the dealer with plants at Evansville and Owensboro amount to less than 10 percent of the total fluid sales of these plants. The primary marketing area for these plants is the area surrounding the cities in which they are located.

In Cheatham County, except for a minor fraction of the county, all of the milk sales are made by Nashville handlers. The operator of the unregulated plant at Clarksville, Tennessee, accounts for less than one percent of the sales in this county.

In Rutherford County, all sales are by handlers under the Nashville order. One regulated plant is located at Murfreesboro in Rutherford County.

Davidson County, which is the present marketing area, has a county-wide health ordinance for milk. The other counties apply health ordinances only with respect to milk supplies for principal urban centers, namely, municipalities of Springfield, Clarksville, Murfreesboro, Shelbyville, Tullahoma, and Manchester.

The requirements under these ordinances are generally similar, and pat-terned after the U.S. Public Health Model Ordinance. All parts of the supply for the proposed enlarged area can be considered interchangeable except for, in some cases, the absence of formal agreements between the various agencies. In a number of instances, reciprocal agreements do exist between the Davidson County Health Department and health departments in surrounding areas, and also between some of the health departments in counties outside Davidson County. There is little or no ungraded milk sold for fluid consumption in those parts of the proposed areas where health ordinances are not applied. The military installation in Fort Campbell maintains its own inspection service with respect to the sources from which it obtains milk. The quality requirements of the military agency are also patterned after the U.S. Public Health code. It is understood that milk supplies meeting the requirements of the various civilian health agencies within the proposed area would generally be acceptable to the military installation.

In the case of Rutherford and Cheatham counties, the question of whether the marketing area should be enlarged is distinctly different from the question of whether other proposed areas should be added. These counties are entirely served by regulated handlers except for the very small fraction of the sales in Cheatham County by one unregulated handler. Regulated hardlers have maintained their sales coverage in these counties without any inroads from unregulated competitors. The milk sold in these two counties (except for less than one percent) is supplied by the same dairy farmers who supply the milk for the present marketing area. Thus, the territory within Cheatham and Rutherford counties may be considered part of

the sales area of handlers regulated under the Nashville order. Extension of the marketing area to include these counties would assure against development of market disturbances which might occur because of the present opportunity for unregulated milk to be sold in these areas. It is concluded that Rutherford and Cheatham counties should be added to the present marketing area.

With respect to other areas proposed to be added to the marketing area, there would be involved plants and groups of dairy farmers, presently outside of regulation, in both cases with principal outlets outside the proposed area. Handlers failed to establish need for extension of regulation to these areas, nor did they establish that there exist disturbing marketing conditions harmful to presently regulated handlers or producers for the Nashville market. Dairy farmers supplying some of the proposed areas testified that the area extension would affect them adversely. Unregulated plant operators testified that such regulation of their plants would be harmful to their interests. Producers supplying the present marketing area took no position with respect to area extension.

The "marketing area" definition should be revised to include Rutherford and Cheatham counties. Inasmuch as there is a veterans' hospital and a military base in Rutherford County, the definition should also specify that Federal reservations or installations within the boundaries are part of the marketing

2. Class II pricing. The Class II price should be increased 10 cents per hundredweight in each month.

A proposal was made on the record by the producers' association to increase the Class II price to a level of 35 cents over the quoted prices for local manufacturing plants in the months of September through March, and 25 cents over such quoted prices in the months of April through August. The proposal would continue the present order provision that such prices would not exceed the basic formula price used in computing the Class I price. An adjustment factor for the Class II price based on the volume of Class II milk in the market was also included in the producer proposal.

The Class II price provisions of the order were revised on the basis of a hearing held in September 1954. On the basis of that hearing, the Class II price was established at a level of 25 cents over the quoted paying prices of certain Tennessee milk manufacturing plants for the months of September through January, and 15 cents over such quoted paying prices in other months, with the limitation, however, that the price should in no case exceed the basic formula price. The basic formula price is the highest of 4 alternatives: (1) Average paying prices of certain Midwest condenseries, (2) a butter-powder formula, (3) paying prices quoted for certain Tennessee manufacturing plants, and (4) a butter-cheese formula. The Secretary's decision of March 25, 1955, in this connection, of which official notice is here

taken (20 F. R. 1980), found that surplus producer milk, when diverted or transferred to manufacturing plants, commanded a premium over the regular prices quoted for such plants.

Evidence given by producers in support of their proposals for raising the Class II price included information that when producer milk is diverted or transferred to unregulated manufacturing plants, such plants pay a higher price than is paid to dairy farmers who regularly supply milk to these manufacturing plants. One reason given for this higher price is the general practice of milk manufacturing plants in the area to pay a premium of 15 cents per hundredweight for milk from farmers using mechanical coolers. A survey of 16 manufacturing plants, made by the producers' association, showed that some of these plants also pay production incentive premiums in winter months. It was indicated that most dairy farmers supplying manufacturing plants produce a small volume relative to the production of farmers supplying fluid markets. Because collection of milk in larger lots is more efficient, such milk is worth more than milk collected in small lots. Hauling subsidies paid to some dairy farmers were found to be a common practice of manufacturing plants. Instances were cited in which manufacturing plants had ôffered to, or did, pay more than the order Class II price for Nashville producer

Some handler witnesses contended that the present Class II price formula is as high as may be obtained from transfers of milk to manufacturing plants. One handler testified, however, that he had received a price 15 cents over the order Class II price on milk transferred to a manufacturing plant.

The volume of milk produced for the Nashville market shows definite seasonal changes with the highest level in spring and the lowest level in the fall. In view of the more stable level of Class I sales throughout the year, seasonal production changes result in several times as much Class II milk in April, May and June as in the shortest fall months. Most Nashville handlers do not have diversified manufacturing operations, and most of the Class II milk is disposed of to unregulated manufacturing plants by bulk shipment or by direct diversion from the farm.

Since the period of relative shortage in the fall months of 1955, the volume of producer milk on the Nashville market has shown a substantial increase. Both producer numbers and volume of milk per farm have increased. In the thirteen months preceding the hearing, from June 1956 to June 1957, producer numbers increased 5.5 percent and production per dairy increased 9.7 percent. The volume of producer milk on the market in recent periods has been more than needed for fluid sales after allowing for seasonal variation and adequate reserves. In the fall months of 1956, producer milk exceeded Class I sales by 24.5 percent in September, 16.9 percent in October, 32.3 percent in November, and 41.4 percent in December. In June 1957, producer milk exceeded Class I sales by 60.9 percent.

The number of producers on the Nash-ville market may be affected by the availability of new producers as well as the needs of handlers. Handler witnesses stated that new producers had been obtained from among ungraded dairy farmers during the past year, and indicated that additional producers could be acquired in this manner. Within the Nashville milkshed there are many dairy farmers shipping to manufacturing plants.

Handler policies with respect to the volume of milk carried in excess of the volume of Class I sales may also be affected by the level of the Class II price. A handler would have no profit incentive to arrange his procurement in line with the level of his Class I sales if the excess over sales volume may be diverted or transferred with no loss or even with some profit. The prices received for pro-ducer milk diverted or transferred to manufacturing plants and the large increase in volume of Class II milk in recent periods indicate that such a situation exists in the Nashville market. Under these circumstances, a moderate increase in the cost to handlers of reserve supplies will tend to deter accumulation of unneeded supplies.

The proposal by producers would result in a 20-cent per hundredweight increase in February and March due to the lengthening out of the seasonally higher price level. Such a higher level in the season of lowest production serves to reflect the greater value of such milk as reserve for fluid sales in these months, and encourages shifting of supplies among handlers according to needs for the fluid market. It is not necessary, for this purpose, to extend the period in which the higher level price applies.

It is concluded that the price for Class II milk should be increased 10 cents per hundredweight in each month, provided such price is not higher than the basic formula price. The higher level of the Class II price should continue to apply in those months when some handlers in the market are likely to experience shortages, since it is at these times that shifting of supplies according to needs of handlers is most important.

A review of prices in recent years shows that if such an increased level of the Class II price had been effective in 1955 and subsequent periods, the price would have been 20 to 30 cents less than the basic formula price in most of the spring and summer months. The relationship would have been close to or equal to the basic formula price in winter months. If the basic formula were not used as a limit, the Class II price at times would have exceeded this level. It is concluded that the present order provision that the Class II price shall not exceed the basic formula price should be retained.

The additional part of the producer proposal to adjust the level of the Class II price based upon the volume of Class II milk in the market is not adopted. It is acknowledged herein that the volume of Class II milk and the relation of this volume to the volume of milk needed by handlers for fluid sales, are important factors in arriving at the appropriate

level of the Class II price, and the level herein determined to be appropriate is based upon consideration of present and prospective supplies of milk. A mechanism as proposed by producers that would reduce automatically the Class II price as the volume of Class II milk diminishes, could result in prices contrary to basic supply and demand conditions. For instance, if there were a period in which the supply of milk became generally shorter, reserve milk normally would have a higher value than in times of excessive supply. In times of short supply, difficulties in obtaining supplemental milk on short notice, or new producers, would tend to enhance the value of reserve milk.

3. Classification of cottage cheese, egg nog, and ice cream. No change should be made in the classification of milk used to produce cottage cheese, egg nog, or ice cream.

A higher classification of milk used for cottage cheese, egg nog, and ice cream was proposed by the producer association. This proposal would establish a price for such class use at the same level as the basic formula price, with a butterfat differential the same as the present Class II butterfat differential. The association requested that milk in such new class not be part of the supply-demand adjustment computation.

Skim milk and butterfat used in the manufacture of cottage cheese, egg nog, and ice cream are classified under the order as Class II milk.

The notice of hearing did not contain a specific proposal on the classification of milk used in ice cream. Such changes in the marketing area as contemplated herein do not give a basis for changing the classification of ice cream. Accordingly, no recommendation is made herein to change such classification.

Most of the cottage cheese sold in the Nashville market is manufactured in handlers' plants from Grade A producer milk. Some cottage cheese sold in stores in the marketing area is supplied by an unregulated plant.

The health authorities for the marketing area do not require that cottage cheese be made from Grade A milk. Some handlers testified that, occasionally, they have used nonfat dry milk or curd from ungraded sources for cottage cheese when producer milk was not available. Definite information was not furnished on whether the unregulated plant supplying cottage cheese to stores makes it from Grade A milk.

In support of their proposal, producers contended that Grade A producer milk has a special value to handlers in use for cottage cheese. They pointed out that cottage cheese is part of the regular year around distribution business of Nashville handlers, and argued that handlers arrange to have a sufficient supply of Grade A milk from producers to cover the needs for cottage cheese. It was pointed out, also, that cottage cheese is regularly distributed on routes along with bottled milk. Computations were presented to show that the cost to handlers would be higher than the cost of producer milk if they depended on nonfat dry milk for such manufacture.

The use of producer milk by Nashville handlers for the manufacture of cottage cheese is affected by availability and convenience. The receipt and processing of non-Grade A milk, under the Davidson County health rules, would require an operation separate from the Grade A operation. Although handlers claimed that cottage cheese is available at reasonable cost from unregulated plants which handle ungraded milk, it is their general practice to manufacture the product in their own plants from producer milk. The ready availability of producer milk in most months is due in part to the fact that normal procurement for fluid requirements in the short season results in ample milk for cottage cheese in most months of the year.

Under the circumstances in the market, it appears that the value of milk for manufacture of cottage cheese is appropriately reflected in the price for Class II milk. It is concluded that no change should be made in the classification of milk used for cottage cheese.

No change should be made in the classification of butterfat or skim milk used to produce egg nog. This product is not required by health authorities in the marketing area to be made from Grade A milk. It is generally supplied in this market by ice cream plants not regulated under the order.

The supply-demand price adjustment should not be changed to exclude the volume of producer milk used for cottage cheese, egg nog, or ice cream as part of the supply. Such milk is available for use, if necessary, for fluid sales and thus should enter into the supply-demand computation.

4. Classification of dumped skim milk. Skim milk dumped subject to verification by the market administrator should be classified as Class II.

Handlers requested that Class II classification be specified for milk dumped. Dumping, it was indicated, is sometimes necessary because of spoilage or failure of normal processing.

Butterfat is generally salvageable, and should not be accounted for as dumped milk. In the case of skim milk, however, there may at times be no other practical disposition, and specific provision to account for such disposition in the lowest-priced class is appropriate.

Such accounting for skim milk should depend on adequate provision for verification. The order should provide that the handler notify the market administrator prior to dumping milk, and give him opportunity to verify the operation.

5. Classification of sour cream from other order sources. No change should be made in the classification and allocation provisions affecting receipts of sour cream in pool plants from plants regulated under other Federal orders.

A proposal was made by some handlers to allocate receipts of sour cream from other Federal order plants to Class I disposition before allocating receipts of producer milk to Class I. In effect, any handler having Class I disposition in the form of sour cream would not have any obligation to producers for such Class I disposition if the sour cream were obtained from plants regulated under another Federal order where it was classi-

fied as Class I, and if the Nashville handler did not also process the same product from Nashville producer milk.

Sour cream is obtained by at least two Nashville handlers from plants under other orders—in one instance, in packages, and in another instance, in bulk. Sales of sour cream in the market constitute a very small fraction of the Class I milk disposition.

It is apparent that the supply of producer milk in the Nashville market is adequate to cover all Class I needs, including sour cream. It was not shown by proponents that there was any need to use other than producer milk to supply the demand for sour cream.

Under the handler proposal, shifts and changes in a handler's procurement operations would affect the interests of producers with whom he has made arrangements for a regular supply. Purchases of supplies from outside sources. as described by handlers, may be on a short-term basis, subject to possible dayto-day variations depending on management decisions. Such an element of uncertainty with respect to handlers' requirements for Class I milk would be inconsistent with development of a reliable supply of producer milk which involves long-term commitments by individual producers, in many cases, of all their farm resources.

It is concluded that evidence does not show a need for giving Class I priority to supplies from other markets over the adequate supply of producer milk. The handlers' proposal is denied.

6. Location differentials. No change should be made in the location differentials provided under the order.

Handlers proposed that no location differentials should apply to prices under the order, or at least, that none should apply within 100 miles of the marketing area. The basis presented for such changes was that the location differentials serve no useful purpose, and that they give a cost advantage to outlying plants. Such cost advantage, presumably, could be used to compete with Nashville plants for sales in areas where such outlying plants are located, or in areas between such plants and the marketing area. No evidence was given to show that the present rate of location differentials is out of line with transportation

Producers also favored a similar change in the location differentials.

Location differentials under the Nashville order apply to the Class I price at plants 50 miles or more from the State Capitol. At distances of 50 to 60 miles, the rate is 10 cents per hundredweight, and for each additional 10 miles or fraction thereof, 1.5 cents per hundredweight.

The bulk of the milk disributed by Nashville handlers is received at plants in the marketing area. There are no supply plants serving the market. There are two distributing plants outside the present marketing area, but not at a distance where location differentials apply.

Distribution routes of some Nashville handlers extend well beyond the limits of the marketing area, in some instances, to a distance of about 100 miles from the center of the area. Within the general

area so served by Nashville handlers, there are several unregulated distributing plants serving local markets.

It is apparent that no plant operator is presently obtaining a cost advantage through location differentials since no regulated plant is at a distance where location differentials apply.

In the outlying areas where some Nashville handlers distribute milk, the competitive local plants are not regulated under an order (except in the case of a shipment to Paducah). The cost of milk to unregulated plants may be expected to be at as low a price as the plants can pay to secure a supply of milk. Nashville handlers' arguments that location differentials give cost advantage to outlying plants appear to be based on the presumption that if a plant became regulated it could secure a supply of milk at a lower price than an unregulated plant at the same location. If a plant at a considerable distance could obtain a milk supply at less than the price at the Nashville market, this situation would depend on supply conditions in the area where such plant is located, rather than on location differentials under the

It is concluded that no change should be made in the location differentials.

7. Miscellaneous and conforming changes. From time to time, a price quotation used in the computation of order prices may not be available in the manner described in the order. In such circumstances, it may not be possible to amend the order in time to make it continuously effective with respect to the affected provision. The order should provide, in such cases, that the Secretary may determine an equivalent price to take the place of the price for which a quotation is not available.

A proposal was made to broaden the producer definition to include persons producing milk qualified for use by Federal agencies. Although there was no indication given that Nashville handlers would need any supplies other than their regular Grade A milk receipts to make sales to Federal agencies, there is the possibility that some plant, with no sales otherwise in the marketing area, might sell milk to some governmental establishment in the marketing area. Sales of milk for Class I uses to any such establishment (Federal or local) in the area should be subject to order pricing. The definition of "producer" should be modified accordingly.

The proposal to suspend the supply-

demand price adjustment until appraisal can be made of its operation with an expanded marketing area is denied, because the addition to the marketing area, herein adopted, is not likely to result in any additional handlers becoming regulated, or in any substantial changes in the volume of sales or

supplies.

Because of the adequacy of nearby manufacturing facilities, there is no need to extend the area for classification according to use of milk transferred to nonfluid milk plants.

The definition of "producer milk" should be clarified with respect to diversion between fluid milk plants. The language should conform to the language used in the definition of "producer", which states that when a producer's milk is diverted to any other milk plant it shall be deemed to have been received by the diverting handler at a fluid milk plant at the location of the plant from which it was diverted.

General findings. (a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest: and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Nashville, Tennessee, Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Nashville, Tennessee, Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the attached order which will be published with this decision.

Referendum order; determination of representative period; and designation of referendum agent. It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order amending the order regulating the handling of milk in the Nashville, Tennessee, marketing area, is approved or favored by the producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of November 1957 is hereby determined to be the representative period for the conduct of such referendum.

Wiley M. Richardson is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders, as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 15th day from the date this decision is issued.

Issued at Washington, D. C., this 9th day of January 1958.

TRUE D. MORSE, Acting Secretary.

Order 1 Amending the Order Regulating the Handling of Milk in the Nashville, Tennessee, Marketing Area

Sec. 978.0 Findings and determinations. · DEFINITIONS 978.1 Act. 978.2 Secretary. 978.3 Department of Agriculture. 978.4 Person. Nashville, Tennessee, marketing 978.5 area. 978.6 Cooperative association. 978.7 Producer-handler. 978.8 Fluid milk plant. Nonfluid milk plant. 978.9 978.10 Handler. 978.11 Producer. 978.12 Producer milk. 978.13 Fluid milk product. 978.14 Other source milk. 978.15 Base milk. Excess milk. MARKET ADMINISTRATOR 978.20 Designation. 978.21 Powers. 978.22 Duties. REPORTS, RECORDS AND FACILITIES

978.30 Reports of receipts and utilization. 978.31 Other reports.

Records and facilities. 978.32 978.33 Retention of records. 978.34 Reports to cooperative associations. CLASSIFICATION OF MILK 978.40 Skim milk and butterfat to be classified.

978.41 Classes of utilization. 978.42 Responsibility of handlers.

978.43 Transfers.

¹This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been

Sec. 978.44	Computation of skim milk and but-
• • • • • • • • • • • • • • • • • • • •	terfat in each class.
978.45	Allocation of skim milk and butter-
_	fat classified.

#### MINIMUM PRICES

978.50	Basic formula price.
978.51	Class prices.
978.52	Butterfat differentials to handlers.
978.53	Location differentials to handlers,
978.54	Use of equivalent price.

#### DETERMINATION OF BASE

978.60	Computation of daily average	e base
	for each producer.	
000.01	The second second	

978.61 Base rules.

978.62 Announcement of established bases.

#### DETERMINATION OF UNIFORM PRICES

978.70	Net obligation of handlers.
978.71	Computation of uniform prices for handlers.
978.72	Computation of the uniform price for base milk and for excess milk for handlers.
978.73	Notification of handlers.

#### PAYMENTS

978.80	Payments to market administrator.
978.81	Payments to producers.
978.82	Butterfat and location differential to producers.
978.83	Statement to producers.

978.84 Reserve funds. 978.85 Expense of administration.

978.86 Marketing services. 978.87 Adjustment of accounts. 978.88 Termination of obligations.

APPLICATION OF PROVISIONS

978.90 Producer-handlers. 978.91 Plants subject to other Federal orders.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

978.100 Effective time.

;

978.101 Suspension or termination.

978.102 Continuing power and duty of the market administrator.

978.103 Liquidation after suspension or termination.

### MISCELLANEOUS PROVISIONS

978.110 Separability of provisions. 978.111 Agents.

AUTHORITY: §§ 978.0 to 978.111 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 978.0 Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7° U.S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7° CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nashville, Tennessee, marketing area. Upon the basis of the evi-

dence introduced as such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to producer milk (including such handler's own production) and other source milk allocated to Class I milk pursuant to § 978.45,

#### ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Nashville, Tennessee, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended to read as follows:

#### DEFINITIONS

§ 978.1 Act. "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S. C. 601 et seq.).

§ 978.2 Secretary. "Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 978.3 Department of Agriculture. "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress, or by Executive order, to perform the price reporting functions of the United States Department of Agriculture.

§ 978.4 Person. "Person" means any individual, partnership, corporation, association, or other business unit.

§ 978.5 Nashville, Tennessee, marketing area. "Nashville, Tennessee, mar-

keting area", hereinafter called the "marketing area", means all the territory within the boundaries of the counties of Davidson, Cheatham and Rutherford, all in the State of Tennessee, including all municipalities within such boundaries, and including all territory within such boundaries occupied by government (municipal, state or Federal) reservations, installations, institutions, or other establishments.

§ 978.6 Cooperative association. "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act", and is authorized by its members to make collective sales or to market milk or its products for the producers thereof.

§ 978.7 Producer-handler. "Producer-handler" means any person who produces Grade A milk under a dairy farm inspection permit issued by any duly constituted health authority, and who processes milk from his own production, all or a portion of which is distributed within the marketing area as Class I milk, but who receives no milk from producers.

§ 978.8 Fluid milk plant. "Fluid milk plant" means all the premises, buildings and facilities of any milk receiving, processing or packaging plant from which plant:

(a) Any fluid milk product is disposed of during the month on routes (including routes operated by vendors, and sales through plant stores) to retail or wholesale outlets (except fluid milk plants) in the marketing area;

(b) Grade A milk or skim milk is shipped during the month for any of the months of January through August to a plant (except any portion thereof from which no fluid milk product may be disposed of under a Grade A label) specified under paragraph (a) of this section; or

(c) Grade A milk or skim milk equal to more than 70,000 pounds is shipped during the month for any of the months of September through December to plants (except any portions of such plants from which no fluid milk product may be disposed of under a Grade A label) specified under paragraph (a) of this section.

§ 978.9 Nonfluid milk plant. "Non-fluid milk plant" means any milk manufacturing, processing, or packaging plant other than a fluid milk plant described in § 978.8.

§ 978.10 Handler. "Handler" means (a) any person in his capacity as the operator of one or more fluid milk plants, or (b) any cooperative association of producers with respect to producer milk diverted by it from a fluid milk plant to a nonfluid milk plant for the account of such association.

§ 978.11 Producer. "Producer" means any person, except a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, or produces milk acceptable for fluid consumption at Federal Government, state or municipal establishments within the marketing area, which milk is received at a fluid milk plant: *Provided*, That if such milk is diverted for his account by a handler from a fluid milk plant to any other milk plant any day during the month, the milk so diverted shall be deemed to have been received by the diverting handler at a fluid milk plant at the location of the plant from which it was diverted.

§ 978.12 Producer milk. "Producer milk" means only that skim milk or butterfat contained in milk (a) received at a fluid milk plant directly from producers' farms, or (b) diverted from a fluid milk plant to any other milk plant (except a plant which is fully subject to the pricing provisions of another order issued pursuant to the act) in accordance with the provisions of § 978.11.

§ 978.13 Fluid milk product. "Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, yogurt, cream or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, eggnog, ice cream mix and aerated cream).

§ 978.14 Other source milk. "Other source milk" means all skim milk and butterfat contained in: (a) Receipts during the month of fluid milk products except (1) fluid milk products received from other fluid milk plants, or (2) producer milk; and (b) products, other than fluid milk products, from any source (including those from a plant's own production), which are reprocessed or converted to another product in the fluid milk plant during the month.

§ 978.15 Base milk. "Base milk" means milk received at fluid milk plants from a producer during any of the months specified in § 978.72 for the computation of base and excess prices, which is not in excess of such producer's daily average base computed pursuant to § 978.60, multiplied by the number of days in such month.

§ 978.16 Excess milk. "Excess milk" means milk received at fluid milk plants from a producer during any of the months specified in § 978.72 for computation of base and excess prices, which is in excess of the base milk of such producer for such month, and shall include all milk received during such months from a producer for whom no daily average base can be computed pursuant to § 978.60.

#### MARKET ADMINISTRATOR

§ 978.20 Designation. The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 978.21 Powers. The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary, complaints of violations:

(c) To make rules and regulations to effectuate its terms and provisions; and (d) To recommend amendments to

the Secretary.

§ 978.22 *Duties*. The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary, a bond, effective as of the date on which he enters upon his duties, and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 978.85 (1) the cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses (except those incurred under § 978.86) necessarily incurred by him in the maintenance and functioning of his office, and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate:

(f) Publicly disclose to handlers and producers, at his discretion, the name of any person who, within 5 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 978.30 and 978.31,

or (2) payments pursuant to §§ 978.80, 978.85 and 978.87;

(g) Submit his books and records to examination by the Secretary, and furnish such information and reports as may be required by the Secretary;

(h) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this part:

(i) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(j) On or before the date specified, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the following: (1) The 6th day of each month, the Class II price and the Class II butterfat differential, both for the preceding month; and (2) the 5th day of each month, the Class I price, and the Class I butterfat differential, both for the current month; and (3) the 10th day after the end of each month, the uniform price(s) for each handler, computed

pursuant to \$ 978.71 or \$ 978.72, and the producer butterfat differential for the preceding month.

#### REPORTS, RECORDS AND FACILITIES

§ 978.30 Reports of receipts and utilization. On or before the 6th day after the end of each month each handler, except a producer-handler, shall report for each of his fluid milk plants for such month, to the market administrator in the detail and on forms prescribed by the market administrator:

 (a) The quantities of skim milk and butterfat contained in receipts of producer milk;

(b) The quantities of skim milk and butterfat contained in fluid milk products received from other fluid milk plants;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) Inventories of fluid milk products on hand at the beginning and end of the month; and

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section.

§ 978.31 Other reports. (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request.

(b) Each handler, except a producerhandler, shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(1) On or before the 6th day after the end of each month for each producer from whom milk was received (i) his name and address, (ii) the total pounds and butterfat content of milk received from such producer during the month, (iii) his total pounds of base milk and his total pounds of excess milk for the month, and (iv) the amount of any deductions authorized in writing by such producer to be made from payments due for milk delivered:

(2) On or before the 21st day of each month, the name and address of each producer from whom milk was received during the first 15 days of such month, and the pounds of milk so received during said period from such producer; and

(3) On or before the first day in any month during which other source milk is received in the form of fluid milk products, his intention to receive such milk, and on or before the last day such milk is received, his intention to discontinue such receipts.

§ 978.32 Records and facilities. Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator, or his representative, such records and facilities as will enable the market administrator to (a) verify the receipts and utilization of all skim milk and butterfat, and, in case of errors or omissions, ascertain the correct figures; (b) weigh, sample and test for butterfat content all milk and milk products handled; (c) verify deductions authorized by producers and the disbursement of moneys so deducted; and

(d) make such examinations of operations, equipment, and facilities as the market administrator deems necessary.

§ 978.33 Retention of records. All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: Provided, That if within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records. or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation, or when the records are no longer necessary in connection therewith.

§ 978.34 Reports to cooperative associations. On or before the 15th day after the end of each delivery period, the market administrator shall report to each cooperative association, as described in § 978.86 (b), upon request by such association, the percentage of milk caused to be delivered by such association or by its members which was used in each class by each handler receiving any such milk. For the purpose of this report, any milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers of such handler are used in such class.

#### CLASSIFICATION OF MILK

§ 978.40 Skim milk and butterfat to be classified. The skim milk and butterfat to be reported for fluid milk plants pursuant to § 978.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 978.41 through 978.45.

§ 978.41 Classes of utilization. Subject to the conditions set forth in §§ 978.42 through 978.45, the classes of utilization shall be as follows:

(a) Class I Milk. Class I milk shall be all skim milk and butterfat (1) disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (3) of this section, and (2) not specifically accounted for as Class II milk.

(b) Class II milk. Class II milk shall be all skim milk and butterfat (1) used to produce any products other than fluid milk products; (2) contained in inventories of fluid milk products on hand at the end of the month; (3) disposed of and used for livestock feed, and skim milk dumped after prior notification to, and opportunity for verification by, the market administrator; and (4) in shrinkage not to exceed 2 percent respectively of the skim milk and butterfat contained in producer milk (except that diverted pursuant to § 978.11) and other source milk: Provided, That if shrinkage of skim milk or butterfat is less than 2 percent of such amounts, it shall be assigned Grade A certification or label. (3) the

pro rata, respectively, to the skim milk handler attaches tags or labels to each and butterfat contained in such producer milk and other source milk.

§ 978.42 Responsibility of handlers. All skim milk and butterfat to be classified pursuant to this part shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified as Class II milk.

§ 978.43 Transfers. (a) Skim milk and butterfat transferred to the fluid milk plant of another handler (except a producer-handler) in the form of fluid milk products shall be classified as Class I milk unless the operators of both plants claim utilization thereof in Class II milk in their reports submitted pursuant to § 978.30: Provided, That skim milk or butterfat so assigned to Class II milk for any month shall be limited to othe amount thereof remaining in Class II milk in the fluid milk plant(s) of the transferee for such month after the computations pursuant to § 978.45 (a) (1), (2) and (3), and the corresponding steps of § 978.45 (b), and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk.

(b) Skim milk and butterfat transferred to the plant of a producer-handler in the form of fluid milk products, shall

be classified as Class I milk.

(c) Skim milk and butterfat transferred or diverted in bulk form as milk, skim milk or cream to a nonfluid milk plant located less than 100 miles from the State Capitol at Nashville, Tennessee, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be classified as Class I milk unless (1) the transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 978.30, for the month within which such transaction occurred, (2) the operator of the nonfluid milk plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (3) not less than an equivalent amount of skim milk and butterfat was actually utilized in the nonfluid milk plant in the use indicated in such report: Provided, That if it is found that an equivalent amount of skim milk and butterfat was not actually used in such plant during the month in such indicated use the pounds transferred in excess of such actual use shall be classified as Class I milk.

(d) Skim milk and butterfat transferred in bulk form as cream to a nonfluid milk plant located 100 miles or more from the State Capitol in Nashville, Tennessee, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be classified as Class I milk unless (1) the transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 978.30, (2) such cream is disposed of and used as other than Grade A under a

container of such cream bearing the words "for manufacturing uses only", (4) the handler gives the market administrator sufficient notice to allow him to verify or inspect such shipment, and (5) the operator of the nonfluid milk plant maintains books and records showing the utilization of all skim milk and butterfat at such plant, which are made available if requested by the market administrator for the purpose of verification.

§ 978.44 Computation of skim milk and butterfat in each class. For each month, the market administrator shall correct for mathematical and other obvious errors the reports of each handler submitted pursuant to § 978.30 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk in the fluid milk plant(s) of such handler.

§ 978.45 Allocation of skim milk and butterfat classified. After making the computations pursuant to § 978.44, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in

the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk in producer milk classified pursuant to § 978.41 (b) (4):

(2) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in other source milk: Provided, That if the pounds of skim milk in other source milk are greater'than the remaining pounds of skim milk in Class II milk, an amount equal to the excess shall be subtracted from the pounds of skim milk in Class I milk:

(3) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month: Provided, That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class II milk. an amount equal to the excess shall be subtracted from the pounds of skim milk

in Class I milk;

(4) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk transferred from the fluid milk plants of other handlers in the form of fluid milk products according to the classification thereof as determined pursuant to § 978.43 (a);

(5) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(6) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be known as "overage".

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a)

of this section; and

(c) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class, pursuant to paragraphs (a) and (b) of this section,

and determine the percentage of butterfat in each class.

#### MINIMUM PRICES

§ 978.50 Basic formula price. The basic formula price shall be the highest of the prices per hundredweight for milk of 4.0 percent butterfat content computed pursuant to paragraphs (a), (b), (c), or (d) of this section, rounded to the nearest whole cent.

(a) To the average of the basic (or field) prices reported to have been paid or to be paid per hunderdweight for milk of 3.5 percent butterfat content received from farmers during the month at the following milk plants for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 5th day after the end of the month:

#### Location and Present Operator

Borden Company, Mount Pleasant, Mich. Borden Company, New London, Wis. Borden Company, Orfordville, Wis. Carnation Company, Oconomowoc, Wis. Carnation Company, Richland Center, Wis. Carnation Company, Sparta, Mich. Pet Milk Company, Bellsville, Wis. Pet Milk Company, Goopersville, Mich. Pet Milk, Company, Hudson, Mich. Pet Milk Company, New Glarus, Wis. Pet Milk Company, Wayland, Mich. White House Milk Company, Manitowoc, Wis.

White House Milk Company, West Bend, Wis.

add an amount computed by multiplying the butterfat differential computed pursuant to § 978.82 by 5.

- (b) The price per hundredweight obtained by adding any plus amounts obtained pursuant to subparagraphs (1) and (2) of this paragraph:
- (1) Multiplying by 4.0 the average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price-range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department of Agriculture during the month, and add 20 percent thereof:
- (2) From the weighted average of the carlot prices per pound for nonfat dry milk solids, spray and roller processs, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department of Agriculture, subtract 5 cents and multiply by 7.5.
- (c) The average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following milk plants for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the month:

#### Location and Present Operator

Cudahy Packing Company, Lafayette, Tenn.

Carnation Company, Murfreesboro, Tenn. Kraft Foods Company, Gallatin, Tenn. Kraft Foods Company, Pulaski, Tenn. Borden Company, Fayetteville, Tenn.

(b) Class II milk price. The Class II milk price shall be the price determined pursuant to § 978.50 (c) plus 25 cents

Borden Company, Lewisburg, Tenn. Lakeshire-Marty Cheese Company, Carthage, Tenn.

Sumner County Cooperative Creamery, Gallatin, Tenn.

Swift & Company, Lawrenceburg, Tenn. Wilson & Company, Murfreesboro, Tenn.

- (d) The price per hundredweight computed as follows:
- (1) Multiply by 6 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the month;
- (2) Add 2.4 times the average of the weekly prevailing price per pound of "Twins" during the month on the Wisconsin Cheese Exchange: Provided, That if the price of "Twins" is not quoted on such Exchange, the weekly prevailing price per pound of "Cheddars" shall be used; and
- (3) Divide by 7, add 30 percent thereof, and then multiply by 4.

§ 978.51 Class prices. Subject to the provisions of §§ 978.52 and 978.53, the class prices per hundredweight for the month shall be as follows:

(a) Class I milk price. The Class I milk price shall be basic formula price for the preceding month, plus \$1.40 dur-ing the months of August through January; and plus \$1.10 during all other months plus or minus a supply-demand adjustment calculated for each month as follows: Provided, That any fluid milk plant which, during the second preceding month, did not dispose of at least an average of 1,000 pounds of fluid milk products per day on routes (including routes operated by vendors and sales through plant stores) to retail or wholesale outlets in the marketing area shall not be included in the supply-demand computation:

(1) For each month calculate a utilization ratio as follows:

(i) Calculate a utilization percentage by dividing the total hundredweight of producer milk of all fluid milk plants during the twelve-month period ending with the beginning of the preceding month by the net hundredweight of Class I milk disposed of from all fluid milk plants during the same period, and multiply the result by 100,

(ii) Add or subtract, respectively, any amount by which the percentage computed pursuant to subdivision (i) of this subparagraph is greater or less than a comparable utilization percentage calculated using the twelve-month period ending with the beginning of the fourth preceding month, and

(iii) The resultant figure rounded to the nearest whole percentage shall be known as the utilization ratio.

(2) For each percentage by which the utilization ratio calculated for the month pursuant to subparagraph (1) of this paragraph exceeds 130, subtract from, or for each percentage by which it is less than 125, add to, the Class I price, two cents: *Provided*, That any subtraction or addition shall be limited to 50 cents during December 1957, and any month thereafter.

during the months of February through August, and plus 35 cents during all other months: *Provided*, That such price shall not exceed the basic formula price.

§ 978.52 Butterfat differentials to handlers. For milk containing more or less than 4.0 percent butterfat, the class prices for the month calculated pursuant to § 978.51 shall be increased or decreased, respectively, for each one-tenth percent variation in butterfat content at the appropriate rate determined as follows:

(a) Class I price. Multiply by 0.12 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department of Agriculture during the previous month, and round to the nearest one-tenth cent.

(b) Class II price. Multiply by 0.115 the average of the daily wholesale prices (using the midpoint of any price range as one price) of 92-score bulk creamery butter per pound at Chicago, as reported by the Department of Agriculture during the month, and round to the nearest one-tenth cent.

§ 978.53 Location differentials to handlers. For that milk which is received from producers at a fluid milk plant located outside the marketing area and 50 miles or more from the State Capitol. Nashville, Tennessee, by shortest hardsurfaced highway distance, as determined by the market administrator, and which is transferred to another fluid milk plant in the form of fluid milk products and assigned to Class I milk pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 978.51 (a) shall be reduced at the rate set forth in the following schedule according to the location of the fluid milk plant where such milk is received from producers:

Distance from the State Capitol,
Nashville, Tenn. (miles):

50 but not more than 60\_\_\_\_\_\_\_\_10.0

For each additional 10 miles or fraction thereof an additional \_\_\_\_\_\_\_1.5

Provided, That for purpose of calculating such location differential, fluid milk products which are transferred between fluid milk plants shall be assigned to any remainder of Class II milk in the plant to which transferred after making the calculations prescribed in § 978.45 (a) (1), (2) and (3), and the comparable steps in § 978.45 (b) for such plant, such assignment to the plant from which transferred to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 978.54 Use of equivalent price. If for any reason a price quotation required by this part for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

#### DETERMINATION OF BASE

§ 978.60 Computation of daily average base for each producer. Subject to

the rules set forth in § 978.61, the daily average base for each producer shall be an amount calculated by dividing the total pounds of producer milk received from such producer at all fluid milk plants during the months of September. through January immediately preceding by 153: Provided, That the base of a producer, who delivers milk during August and whose deliveries are temporarily discontinued during the base-forming period, shall be determined by dividing by the number of days for which deliveries are made or by 138, whichever is higher.

§ 978.61 Base rules. The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base as calculated pursuant to § 978.60 to each person for whose account producer milk was delivered to fluid milk plants during the months specified in § 978.60 for computation of base.

(b) An entire base or any portion thereof shall be transferred from a person holding such base to any other person, effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator, and signed by the baseholder, or his heirs, and by the person to whom such base is to be transferred: *Provided*, That if a base is held jointly, the entire base or any portion thereof shall be transferrable only upon the receipt of such application signed by all joint holders or their heirs.

§ 978.62 Announcement of established bases. On or before February 25 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily average base established by such producer.

#### DETERMINATION OF UNIFORM PRICES

§ 978.70 Net obligation of handlers. The net obligation of each handler for producer milk received at his fluid milk plant(s) each month shall be a sum of money computed by the market administrator as follows: (a) Multiply the total pounds of such milk in each class by the applicable class price; (b) add together the resulting amounts; (c) add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 978.45 (a) (6) and (b) by the applicable class price; and (d) add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat in Class II milk after making the calculations for such handler pursuant to § 978.45 (a) (4) and (b) for the preceding month, or by the hundredweight of milk subtracted from Class I milk pursuant to § 978.45 (a) (3) and (b) for the current month, whichever is less.

§ 978.71 Computation of uniform prices for handlers. For each month, except those months specified in § 978.72 for the computation of base and excess

prices, the market administrator shall compute a uniform price for the producer milk received by each handler as follows:

(a) Add to the amount computed for such handler pursuant to § 978.70, the sum of the location differential deductions to be made pursuant to § 978.82 (b);

(b) Add or subtract for each onetenth percent that the average butterfat content of producer milk received by such handler is less or more, respectively, than 4.0 percent, an amount computed by multiplying such difference by the butterfat differential to producers, and multiplying the result by the total hundredweight of his producer milk;

(c) Add the amount remaining in the reserve fund for such handler;

(d) Divide the resulting amount by the total hundredweight of producer milk received by such handler; and

(e) Subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be known as the uniform price for such handler for milk of 4.0 percent butterfat content, f. o. b. marketing area.

§ 978.72 Computation of the uniform price for base milk and for excess milk for handlers. For each of the months of February through July, the market administrator shall compute for each handler, with respect to his producer milk, a uniform price for base milk and for excess milk as follows:

·(a) Add to the amount computed for such handler pursuant to § 978.70, the sum of the location differential deductions to be made pursuant to § 978.82 (b);

(b) Add or subtract for each onetenth percent that the average butterfat content of producer milk received by such handler is less or more, respectively, than 4.0 percent, an amount computed by multiplying such difference by the butterfat differential to producers, and multiplying the result by the total hundredweight of his producer milk;

(c) Add the amount remaining in the reserve fund for such handler:

(d) Compute the value of excess milk on a 4.0 percent basis in the producer milk of such handler by multiplying the hundredweight of such milk not in excess of the total quantity of the Class II milk of such handler by the price for Class II milk of 4.0 percent butterfat content, multiplying the hundredweight of such milk in excess of the total quantity of such Class II milk of such handler by the price for Class I milk of 4.0 percent butterfat content and adding together resulting amounts;

(e) Divide the total value of excess milk obtained in paragraph (d) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat content f. o. b. marketing area:

Provided, That such excess price shall not exceed the uniform price for base milk computed pursuant to paragraph (g) of this section. Any additional value remaining shall be prorated on a volume basis between excess and base milk.

(f) Subtract the value of excess milk determined by multiplying the uniform

price obtained in paragraph (e) of this section, times the hundredweight of such excess milk from the total value of producer milk determined according to the calculations in paragraph (a) through (c) of this section; and

(g) Divide the amount obtained in paragraph (f) of this section by the total hundredweight of base milk in the producer milk of such handler and subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content f. o. b. marketing area.

§ 978.73 Notification of handlers. On or before the 10th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(a) The amount of his producer milk allocated to each class;

(b) The calculation of such handler's net obligation pursuant to § 978.70:

(c) The uniform price(s) computed for such handler pursuant to §§ 978.71 and 978.72 and the producer butterfat differential computed pursuant to § 978.82 (a); and

(d) The amounts to be paid by such handler pursuant to §§ 978.80, 978.85 and 978.87.

#### PAYMENTS

§ 978.80 Payments to market administrator. (a) On or before the 25th day of each month each handler shall pay to the market administrator for deposit into the reserve fund for such handler a sum of money calculated by multiplying the hundredweight of producer milk received by him during the first 15 days of such month by the Class II price for the preceding month.

(b) On or before the 12th day after the end of each month, each handler shall pay to the market administrator for deposit into the handler's reserve fund an amount of money equal to such handler's net obligation for such month as determined pursuant to § 978.70 less payments made pursuant to paragraph (a) of this section for such month and less proper deductions authorized in writing by producers from whom such handler received milk.

§ 978.81 Payments to producers. (a) On or before the last day of each month, the market administrator shall make payment to each producer for milk received from such producer during the first 15 days of such month by handlers from whom the appropriate payments have been received pursuant to § 978.80 (a) at not less than the Class II price per hundredweight for the preceding month.

(b) On or before the 15th day after the end of each month, the market administrator shall make payment to each producer for milk received from such producer during the month by each handler from whom the appropriate payments have been received pursuant to § 978.80 (b), such payments by the market administrator to be at not less than the uniform price computed pursuant to § 978.71 for such handler for the months for which such uniform prices are computed, and such payments to be for base and excess milk at not less than the

uniform base and excess prices, respectively, computed pursuant to § 978.72 for such handler for the months for which such base and excess prices are computed, subject to the following adjustments: (1) Butterfat and location differentials pursuant to § 978.82, (2) less payments made pursuant to paragraph (a) of this section, (3) less marketing service deductions pursuant to \$ 978.86, (4) less proper deductions authorized in writing by the producer, and (5) adjusted for any error in calculating payment to such individual producer for past months: Provided, That if the market administrator has not received full payment from any handler for such month, pursuant to § 978.80, he shall reduce uniformly per hundredweight his payments due such handler's producers for milk received by such handler by a total amount not in excess of the amount due from such handler: Provided further, That the market administrator shall make such balance of payment to such producers on or before the next date for making payments pursuant to this paragraph following that on which such balance of payment is received from such handler.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section the market administrator shall pay, on or before the second day prior to the date payments are due to individual producers, to a cooperative association which is authorized to collect payment for milk of its members and from which a written request for such payment has been received, a total amount equal to, but not less than, the sum of the individual payments otherwise payable to such producers pursuant to this section.

§ 978.82 Butterfat and location differentials to producers. (a) The applicable uniform prices to be paid each producer pursuant to § 978.81 (b) shall be increased or decreased for each onetenth of one percent which the average butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the average of the daily wholesale prices per pound of 92-score butter in the Chicago market as reported by the Department of Agriculture during the month in which the milk was received by 0.12 and adjusting to the nearest even one-tenth of a cent.

(b) In making payment to producers pursuant to § 978.81 (b), the applicable uniform prices to be paid for producer milk received at a fluid milk plant located 50 miles or more from the State Capitol, Nashville, Tennessee, by the shortest hard-surfaced highway distance as determined by the market administrator, shall be reduced according to the location of the fluid milk plant where such milk was received at the following rate:

Rate per hundredweight (cents)

Distance from the State Capitol, Nashville, Tenn. (miles): 50 but not more than 60\_ 10.0 For each additional 10 miles or frac-1.5 tion thereof an additional\_\_\_\_\_

§ 978.83 Statement to producers. In making payments required by § 978.81 (b), the market administrator shall sociation with a supporting statement in such form that it may be retained by the producer or cooperative association which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and the average butterfat content of milk delivered by the producer, including, for the months in which base and excess prices apply, the pounds of base and excess milk;

(c) The minimum rate or rates at which payment to the producer or cooperative association is required under the provisions of §§ 978.81 and 978.82;

(d) The amount or the rate per hundredweight of each deduction claimed by the handler including any deduction made pursuant to § 978.86, together with a description of the respective deductions: and

(e) The net amount of payment to the producer or cooperative association.

§ 978.84 Reserve funds. The market administrator shall maintain for each handler a reserve fund into which he shall deposit the appropriate payments made by such handler pursuant to §§ 978.80 and 978.87, and out of which he shall make the appropriate payments required for such handler pursuant to §§ 978.81 and 978.87.

§ 978.85 Expense of administration. As his pro rata share of this part, each handler shall pay to the market administrator, on or before the 15th day after the end of each month, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts, during the month, of (a) producer milk (including such handler's own production), and (b) other source milk allocated to Class I milk pursuant to § 978.45.

§ 978.86 Marketing services. (a) Except as set forth in paragraph (b) of this section, the market administrator, in making payments to producers pursuant to § 978.81, shall deduct an amount not exceeding 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk received by a handler(s) from producers during the month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association. Such services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to him.

(b) In the case of producers who are members of a cooperative association which the Secretary determines is performing the services specified in paragraph (a) of this section for its members. the market administrator shall, in lieu of the deductions provided in paragraph (a) of this section, make such deductions as are authorized by such producers, and on or before the 15th day after the end of each month, pay the money so deducted to such cooperative association.

§ 978.87 Adjustment of accounts. Whenever audit by the market administrator of any handler's reports, books. furnish each producer or cooperative as- 3 records or accounts or other verification discloses errors, resulting in money due the market administrator from such handler, or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

> § 978.88 Termination of obligations. The provisions of this section shall apply to any obligation under this part for the payment of money, irrespective of when such obligation arose, except an obligation involved in an action instituted before March 1, 1950, under section &c (15) (A) of the Act or before a court.

> (a) The obligation of any handler to pay money required to be paid under the terms of this part, shall except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligations, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifes a handler the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representa-

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section. a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler

any money which such handler claims to be due him under the terms of this part shall terminate two years after the end milk involved in the claim was received if an underpayment is claimed or twoyears after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

#### APPLICATION OF PROVISIONS

§ 978.90 Producer-handlers. Sections 978.40 through 978.45, 978.50 through 978.53, 978.60 through 978.62, 978.70 through 978.73, and 978.80 through 978.87 shall not apply to a producer-handler.

§ 978.91 Plants subject to other Federal orders. A plant specified in paragraph (a) or (b) of this section shall be treated as a nonfluid milk plant except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 978.30), and allow verification of such reports by the market administrator.

(a) Any plant qualified pursuant to § 978.8 (a) which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless a greater volume of Class I milk is disposed of from such plant to retail or wholesale outlets (except fluid milk plants) in the Nashville marketing area than in the marketing area regulated pursuant to such other order.

(b) Any plant qualified pursuant to § 978.8 (b) or (c) which would be subject to the classification and pricing provisions of another order issued pursuant to the act, unless such plant qualified as a fluid milk plant pursuant to § 978.8 (c) for each of the preceding months of September through December.

#### EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 978.100 Effective time. The provisions of this part or any amendments to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 978.101 Suspension or termination. The Secretary shall suspend or terminate any or all of the provisions of this part, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 978.102 Continuing power and duty of the market administrator. (a) If, upon the suspension or termination of any or all of the provisions of this part. there are any obligations arising under this part, the final accrual or ascertainment of which requires further acts by

any handler, by the market administrator, or by any other person, the power and duty to perform such further acts of the calendar month during which the ashall continue notwithstanding such suspension or termination: Provided, That any such acts required to be performed by the market administrator, shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate, shall (1) continue in such capacity until discharged by the Secretary: (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 978.103 Liquidation after suspension or termination. Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator, or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

#### MISCELLANEOUS PROVISIONS

§ 978.110 Separability of provisions. If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

§ 978.111 Agents. The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

[F. R. Doc. 58-266; Filed, Jan. 13, 1958; 8:46 a. m.]

# **Commodity Stabilization Service** [ 7 CFR Part 723 ]

CIGAR-FILLER TOBACCO, CIGAR BINDER TO-BACCO, AND CIGAR-FILLER AND BINDER TOBACCO

ESTABLISHMENT OF FARM ACREAGE ALLOT-MENTS AND NORMAL YIELDS FOR 1958-59 MARKETING YEAR

Notice is hereby given that pursuant to the authority contained in the applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1313, 1375), the Secretary is preparing to amend the regulations (22 F. R. 4351, 8127) governing establishment of farm acreage allotments for the 1958-59 marketing year for cigar-binder tobacco and cigar-filler and binder tobacco by amending § 723.923 to read as follows:

§ 723.923 Determination of acreage allotments for new farms. (a) The acreage allotment, other than an allotment made under § 723.920, for a new farm shall be that acreage which the county committee determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator; the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: Provided, That the acreage allotment so determined shall not exceed 75 percent of the allotments for old farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco.

(b) Notwithstanding any other provisions of this section, a tobacco acreage allotment shall not be established for any new farm unless each of the following conditions has been met:

(1) The farm operator shall have had experience in the kind of tobacco for which an allotment is requested and such experience shall consist of the preparation of the plant bed and extending through preparation of the tobacco for market: Provided, That production of tobacco on a farm in 1955, 1956 or 1957 for which in accordance with applicable law and regulations no 1955, 1956 or 1957 tobacco acreage allotment respectively was determined shall not be deemed such experience for any producer.

(2) The farm covered by the application shall be the only farm owned or operated by the farm operator for which a cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco acreage allotment is established for the 1958-59 marketing year.

(3) The farm or any portion thereof shall not have been a part of another farm during any of the five years 1953-57 for which an old farm tobacco acreage allotment was determined, except that this provision shall not of itself make a farm ineligible for a new farm allotment (i) if it is the same farm or a portion of the same farm for which an old farm allotment was cancelled since 1952 due to no tobacco being produced thereon for five years, or (ii) if it was a portion of an old farm during any of the years 1953-57 and at time of division of the farm contained cropland but received no part of the allotment due (a) to division of the allotment on a contribution basis. or (b) to agreement and approval of all interested parties as provided in the section of these regulations governing divisions and combinations of allotments.

(c) The acreage allotments established as provided in this section shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms. One percent of the 1958 national marketing quota shall, when converted to an acreage allotment by the use of the national average yield, be available for establishing allotments for new farms. The national average yield shall be the average of the several State yields used in converting the State marketing quotas into State acreage allotments.

Prior to final adoption and issuance of amendments, substantially as outlined above, consideration will be given to any data, views and recommendations pertaining thereto which are submitted in writing to the Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture, Washington 25, D. C. All submissions must be postmarked not later than five days after the date of publication of this notice in the Federal Register in order to be considered.

Issued at Washington, D. C., this 10th day of January 1958.

[SEAL] CLARENCE L. MILLER,
Acting Administrator,
Commodity Stabilization Service.

[F. R. Doc. 58-333; Filed, Jan. 13, 1958; 10:55 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

[ 47 CFR Parts 7, 8 ]

[Docket No. 11725; FCC 58-36]

STATIONS ON LAND AND ON SHIPBOARD IN MARITIME SERVICES

ESTABLISHMENT OF CLASS I PUBLIC COAST STATIONS TO BE LOCATED IN GULF OF MEXICO SEABOARD AREA

In the matter of amendment of Parts 7 and 8 of the Commission's rules to provide for the establishment of Class I public coast stations to be located in the Gulf of Mexico seaboard area by making available therefor certain frequencies between 5000 kc and 25000 kc., Docket No. 11725.

Report and order. 1. On June 4, 1956, the Commission released its Notice of Proposed Rule Making in this docket. The impetus for the Notice came from a petition filed on December 22, 1955, by Mobile Marine Radio and an application filed by American Telephone and Telegraph Company.

2. In accordance with the requirements of section 4 (a) of the Administrative Procedure Act, Notice of Proposed Rule Making in this matter which made provision for the submission of written comments by interested parties, was duly published in the Federal Register on June 7, 1956 (21 F. R. 3906), and the period for filing comments has now expired.

3. Comments in support of the proposal were filed in the docket by the American Telephone and Telegraph Company, American Merchant Marine Institute, Inc. and Mobile Marine Radio. No other comments were filed.

4. The comments, in general, expressed a need for long distance radio

communication by small vessels such as those of the fishing fleet. According to the comments received, these vessels heretofore have had their communication needs met by the Class II-B radiotelephone stations located in the seaboard area of the Gulf of Mexico. However, as indicated by the comments, these vessels have increasingly extended their operations and now ply waters far beyond the reach of the communication range of the Class II-B stations. Hence, it is evident that such vessels would be accommodated by the proposed establishment of Class I-B public coast stations, making available long distance communication facilities in the Gulf of Mexico seaboard area.

5. The establishment of Class I-B public coast stations in the Gulf seaboard area is not, however, the only solution to the communication problem of the small vessels. Those vessels could feasibly install radio equipment which would enable them to obtain the desired long range radiotelephone communications from the existing Class I-B public coast station at New York.

6. The first alternative, i. e., establishing new Class I-B public coast stations in the Gulf seaboard area would mean assigning, on a shared basis, frequencies which are now assigned to the New York Class I-B public coast station or amending the Commission's rules to include long range radiotelephone frequencies other than those assigned to the United States, provided that such international frequencies could be made available. It should be noted, however, that even if such international frequencies could be made available for use in the Gulf area, they could only be assigned on a noninterference basis to assignments in the world-wide telephone plan, Geneva Agreement, 1951) which would have priority. The second alternative would mean that the small vessels in the Gulf would have to equip with radio installations which would enable them to communicate with the existing Class I-B public coast radiotelephone station at New York in order to obtain the communications that they need.

7. Additionally, the use of the Mississippi River frequencies, including 8205.5 ke, should not be authorized for communication with ships in the Gulf of Mexico (Mobile Marine had requested that Mississippi River frequencies be made available for assignment to a public coast station to be located in the vicinity of Mobile, Alabama, for such communication) since it is expected that such communication would cause harmful interference to United States radiotelephone channels and to radiotelephone channels of other countries as internationally established by the maritime coast and mobile radiotelephone plan (Extraordinary Administrative Radio Conference, Geneva, 1951).

8. It is believed that operation of additional Class I-B public coast stations in the Gulf Area on the same frequencies as the New York Class I-B public coast station would cause harmful interference. The best solution of this problem appears to be the installation of the necessary equipment, power, and oper-

ators on the ships involved, in order to use the long-range facilities now existing at New York. However, it is possible that international marine radiotele-phone frequencies in the 8 Mc or 13 Mc band, other than those assigned to the United States, may be available for use in the Gulf Area on a non-interference basis. Application for authority to operate on such frequencies should be accompanied by petition for waiver (if temporary operation is contemplated) or amendment of the applicable Commission's rules and, further, should be filed only after the prospective licensee has determined by monitoring, or other suitable means, that its use of the frequency would be unlikely to cause harmful interference. It should be emphasized that cessation of operation on any such frequencies would be required if interference were caused to stations opperating in accordance with the Extraordinary Administrative Radio Conference, Geneva, 1951 maritime radiotelephone assignment plan.

In view of the foregoing: It is ordered, That pursuant to section 4 (i) of the Communications Act of 1934, as amended,

(1) The Notice of Proposed Rule Making in this proceeding is withdrawn and Docket No. 11725 is closed;

(2) The remaining portion of the petition of Mobile Marine Radio which requested that the Commission make available for assignment Mississippi River frequencies for use in the Gulf of Mexico is hereby denied.

Adopted: January 8, 1958. Released: January 9, 1958.

[SEAL]

FEDERAL COMMUNICATIONS
COMMISSION,
MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-277; Filed, Jan. 13, 1958; 8:48 a.m.]

#### [ 47 CFR Part 16 ]

[Docket No. 12284; FCC 58-35]

NOTICE OF PROPOSED RULE MAKING

In the matter of amendment of § 16.256 and deletion of § 16.257 of Part 16, Land Transportation Radio Services.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has before it for consideration it First (FCC-54-1107) and Second (FCC-55-141) Reports and Orders in Docket 10743 and §§ 16.256 and 16.257 of Part 16, Land Transportation Radio Services. By these orders and the above-mentioned sections the Commission abolished the Highway Truck Radio Service, the Urban Transit Radio Service, and the Intercity Bus Radio Service and created a new Motor Carrier Radio Service. Licensees in those former services who are eligible in either the Special Industrial Radio Service or the Motor Carrier Radio Service are required to modify their licenses to change to the appropriate service sixty days prior to the expiration of their current licenses. This, in many cases, requires the licensees to change to other frequencies before they may continue use of their systems. On the other hand, licensees in the former Highway Truck Radio Service who are not eligible in either the Special Industrial Radio Service or the Motor Carrier Radio Service are allowed to operate on the presently assigned frequencies until March 15, 1960, in order to amortize their equipment.

3. It appears to the Commission that this action is now inequitable, in the light of the considerations set forth below, and all present licensees in those former services should be permitted to continue on the presently assigned frequencies in order to amortize their equipment, if they so desire, until March 15, 1960.

4. Subsequent to the orders in Docket No. 10743, the Commission has issued Notices of Proposed Rule Making in Docket Nos. 11991, 11992, 11993 and 12169 and in addition, has issued an Order of Inquiry in Docket No. 11997, all of which might have a direct effect on the Motor Carrier Radio Service and the Special Industrial Radio Service. It is conceivable that the licensees in those former radio services would be required to change frequencies a second time and possibly again be forced to discard good usable equipment by the outcome of

those dockets. Also it is possible that by March 15, 1960 the licensees would have a larger choice of not only specific frequencies but even frequency bands from which to make his selection.

5. The proposed amendments are issued under the authority contained in section 4 (i), 303 (b) (c), and (r) of the Communications Act of 1934, as amended, and are set forth below.

6. Any interested person who is of the opinion that the proposed amendments should not be adopted or should not be adopted in the form set forth herein, and any person desiring to support this proposal may file with the Commission on or before February 14, 1958, a written statement or brief setting forth his comments. Replies to such comments may be filed within ten days from the last date for filing original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

7. In accordance with the provisions of § 1.764 of the Commission's rules an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission.

Adopted: January 8, 1958.

Released: January 9, 1958.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL] MARY JANE MORRIS, Secretary.

1. It is proposed to amend § 16.256 to . read as follows:

§ 16.256 Amortization period. Persons authorized to operate in the former Highway Truck Radio Service, the former Intercity Bus Radio Service, and the former Urban Transit Radio Service, and who have not obtained licenses for their stations in some other service, may continue to operate on the frequencies presently assigned to them until March 15, 1960. During this period, such persons may renew, modify, or reinstate their licenses; however, they will not be authorized to expand their facilities by the addition of base or fixed stations.

2. It is proposed to delete § 16.257.

[F. R. Doc. 58-278; Filed, Jan. 13, 1958; 8:48 a.m.]

# NOTICES

# CIVIL AERONAUTICS BOARD

[Docket No. 8727]

BLATZ AIRLINES, INC.; ENFORCEMENT PROCEEDING

notice of postponement of hearing

In the matter of Blatz Airlines, Inc., enforcement proceeding.

Notice is given herewith, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that public hearing in the above-entitled proceeding previously assigned to be held on January 15, 1958, before Examiner Richard A. Walsh is hereby postponed indefinitely.

Dated at Washington, D. C., January 9.1958.

[SEAL]

FRANCIS W. BROWN, Chief Examiner.

[F. R. Doc. 58-323; Filed, Jan. 13, 1958; 9:05 a.m.]

[Docket No. 9053]

LINEA EXPRESA BOLIVAR COMPANIA ANONIMA

NOTICE OF POSTPONEMENT OF HEARING

In the matter of the denial of further foreign civil aircraft flight permits to Linea Expresa Bolivar Compania Anonima pursuant to section 6 (b) of the Air Commerce Act of 1926, as amended.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, that the hearing in the above-entitled

proceeding now assigned to be held on January 15, 1958, is postponed to a date to be later assigned.

Dated at Washington, D. C., January 10, 1958.

[SEAL]

FRANCIS W. BROWN, Chief Examiner.

[F. R. Doc. 58-322; Filed, Jan. 13, 1958; 9:05 a.m.1

# CIVIL SERVICE COMMISSION

ALL CLASSES OF POSITIONS IN ENGINEERING DESIGN AND DRAFTING SERIES, GS-818-0, in Metropolitan Area of Minneapolis-ST. PAUL, MINN.

INCREASE IN MINIMUM RATES OF PAY

Under the provisions of section 803 of the Classification Act of 1949, as amended (68 Stat. 1106; 5 U.S. C. 1133) pursuant to 5 CFR 25.103, 25.105, the Commission has increased the rate of pay for all classes of positions in the Engineering Design and Drafting Series GS-818-0 to step 7 of grades GS-3 through GS-7.

The new rates of compensation are as follows:

GS-818-3, Step 7, \$3,685. GS-818-4, Step 7, \$3,925. GS-818-5, Step 7, \$4,480.

GS-818-6, Step 7, \$4,890.

GS-818-7, Step 7, \$5,335.

These increases are effective on the first day of the second pay period which begins after January 10, 1958, and apply in the Metropolitan Area of MinneapolisSt. Paul. The Metropolitan Area refers to the counties of Anoka, Dakota, Hennepin and Ramsey in Minnesota.

> UNITED STATES CIVIL SERV-ICE COMMISSION. WM. C. HULL,

[SEAL] Executive Assistant.

[F. R. Doc. 58-269; Filed, Jan. 13, 1958; 8:47 a. m.]

# FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 10968-10970; FCC 58M-18]

GREAT LAKES TELEVISION, INC., ET AL.

ORDER CONTINUING HEARING

In re applications of Great Lakes Television, Inc., Buffalo, New York, Docket No. 10968, File No. BPCT-1812; Leon Wyszatycki, d/b as Greater Erie Broadcasting Company, Buffalo, New York, Docket No. 10969, File No. BPCT-1827; WKBW-TV, Inc., Buffalo, New York, Docket No. 10970, File No. BPCT-1841; for construction permits for new tele-vision stations (Channel 7).

The Hearing Examiner having under consideration a motion for continuance of hearing date and to set date for exhibit exchange filed by WKBW-TV, Inc. and Greater Erie Broadcasting Company on January 2, 1958;

It appearing that good cause has been shown and that all parties have consented to a continuation of the hearing from January 15 to January 29, 1958; and have consented to a waiver of the fourday rule;

It is ordered, This 7th day of January 1958, that the motion of WKBW-TV, Inc., and Greater Erie Broadcasting Company for continuance is granted; the exhibits will be exchanged among the parties on January 20, 1958, and the date for hearing in the above-entitled proceeding is continued from January 15 to January 29, 1958.

Released: January 8, 1958.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL]

MARY JANE MORRIS, Secretary.

[F. R. Doc. 58-279; Filed, Jan. 13, 1958; 8:48 a. m.1

[Docket Nos. 11588, 11999; FCC 58M-15]

JOSEPH M. RIPLEY, INC., AND DAN RICHARDSON

ORDER SCHEDULING ORAL ARGUMENT

In re applications of Joseph M. Ripley, Inc., Jacksonville, Florida, Docket No. 11588, File No. BP-9788; Dan Richardson, Orange Park, Florida, Docket No. 11999, File No. BP-10697; for construction permits.

The Hearing Examiner having under consideration a request on behalf of the applicant, Joseph M. Ripley, Inc., for "Praecipe for Witness Subpoena" to be directed to D. W. McLeod, Tax Assessor, Clay County, Florida;

It appearing that good and sufficient cause exists why oral argument should be presented respecting said request;

1958, that oral argument will be made on said request for "Praecipe for Witness Subpoena" at 9:30 o'clock a. m. on January 20, 1958, in the Commission's offices in Washington, D. C.

Released: January 8, 1958.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL] MARY JANE MORRIS,

Secretary:

[F. R. Doc. 58-280; Filed, Jan. 13, 1958; 8:48 a. m.]

[Docket Nos. 11588, 11999; FCC 58M-17]

JOSEPH M. RIPLEY, INC., AND DAN RICHARDSON

ORDER SCHEDULING ORAL ARGUMENT

In re applications of Joseph M. Ripley, Inc., Jacksonville, Florida, Docket No. 11588, File No. BP-9788; Dan Richardson, Orange Park, Florida, Docket No. 11999, File No. BP-10697; for construction permits.

It is ordered, This 7th day of January 1958, on the Hearing Examiner's own motion, that oral argument will be made on "Petition to Strike Exhibits and for Grant", filed herein on behalf of Joseph M. Ripley, Inc., in the offices of the Com-

It further appearing that all parties mission in Washington, D. C. at 9:00 o'clock a. m. on January 20, 1958.

Released: January 8, 1958.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL]

MARY JANE MORRIS, Secretary.

[F. R. Doc. 58-281; Filed, Jan. 13, 1958; 8:48 a. m.]

[Docket No. 12104 etc.; FCC 58M-16]

RALPH D. EPPERSON ET AL. ORDER CONTINUING HEARING

In re applications of Ralph D. Epperson, Williamsburg, Virginia, Docket No. 12104, File No. BP-10958; Mary Cobb & Richard S. Cobb d/b as Williamsburg Broadcasting Company, Williamsburg, Virginia, Docket No. 12105, File No. BP-11199; WDDY, Incorporated (WWDY), Gloucester, Virginia, Docket No. 12271, File No. BP-11508; for construction permits.

Upon oral request of counsel for the Broadcast Bureau, and with the concurrence of all of the parties: It is ordered, This 7th day of January 1958, that the further prehearing conference in the above-entitled matter, heretofore scheduled to commence at 10:00 a.m., January 13, 1958, is hereby rescheduled to commence at 10:00 a.m., January 16, 1958, in the Commission's offices at Washington, D. C.

Released: January 8, 1958.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL]

MARY JANE MORRIS. Secretary.

It is ordered, This 7th day of January [F. R. Doc. 58-282; Filed, Jan. 13, 1958; 8:49 a. m.]

[Docket Nos. 12239, 12240; FCC 58M-20]

FARGO TELECASTING CO. AND NORTH DAKOTA Broadcasting Co., Inc.

ORDER SCHEDULING FURTHER PREHEARING CONFERENCE

In re application of Marvin Kratter d/b as Fargo Telecasting Company, Fargo, North Dakota, Docket No. 12239, File No. BPCT-2261; North Dakota Broadcasting Company, Inc., Fargo, North Dakota, Docket No. 12240, File No. BPCT-2357; for construction permits for new television broadcast stations-Channel 11.

At the request of counsel for North Dakota Broadcasting Company, Inc. and with the agreement of all other counsel in the above-entitled proceeding: It is ordered, That a further prehearing conference be held on January 16, 1958, at 2 p. m., in the offices of the Commission, Washington, D. C.

Dated, this 8th day of January, 1958. Released: January 8, 1958.

> FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS, Secretary.

[F. R. Doc. 58-283; Filed, Jan. 13, 1958; 8:49 a.m.]

[Docket No. 12256; FCC 58-291

CLASS BFM BROADCAST STATIONS

REVISED TENTATIVE ALLOCATION PLAN

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 8th day of January 1958;

The Commission having under consideration a proposal to amend the Revised Tentative Allocation Plan for Class B FM Broadcast Stations, and

It appearing that Notice of Proposed Rule Making (FCC 57-1299) setting forth the above proposal was issued by the Commission on November 29, 1957, and was duly published in the FEDERAL REGISTER (22 F. R. 9705), which notice provided that interested parties might file statements or briefs with respect to the said proposal on or béfore December 27, 1957; and

It further appearing that no comments were received concerning the proposed amendment; and

It further appearing that adoption of the proposed amendment would make Channel 283 available for assignment in the Philadelphia, Pennsylvania, area as requested in a petition submitted by The Young People's Church of the Air, 730 Chestnut Street, Philadelphia, Pennsylvania; and

It further appearing that authority for the adoption of the proposed amendment is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r), and 307 (b) of the Communications Act of 1934, as amended;

It is ordered, That effective January 8, 1958, the Revised Tentative Allocation Plan for Class BFM Broadcast Stations is amended as follows in respect to the following listed cities:

General area	Channels	
	Delete	Add
Philadelphia, Pa Trenton, N. J	284	283 278

Released: January 9, 1958.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL] MARY JANE MORRIS, Secretary.

[F. R. Doc. 58-284; Filed, Jan. 13, 1958; 8:49 a.m.]

[Docket No. 12257; FCC 58-30]

CLASS B FM BROADCAST STATIONS

REVISED TENTATIVE ALLOCATION PLAN

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 8th day of January 1958;

The Commission having under consideration a proposal to amend the Revised Tentative Allocation Plan for Class B FM Broadcast Stations, and

It appearing that Notice of Proposed Rule Making (FCC 57-1300) setting forth the above proposal was issued by the Commission on November 29, 1957 and was duly published in the FEDERAL REGISTER (22 F. R. 9705), which notice provided that interested parties might file statements or briefs with respect to the said proposal on or before December 27, 1957; and

It further appearing that no comments were received opposing the proposed

amendment: and

It further appearing that the adoption. of the proposed amendment would facilitate action on an application, File No. BPH-2301, to change the channel assignment of Station KFBK-FM, Sacramento, California, from 245 to 223, and to make other changes in its facilities; and

It further appearing that authority for the adoption of the proposed amendment is contained in section 4 (i), 301, 303 (c), (d), (f), and (r), and 307 (b) of the Communications Act of 1934, as

amended:

It is ordered, That effective January 8, 1958, the Revised Tentative Allocation Plan for Class B FM Broadcast Stations is amended as follows in respect to the city of Sacramento, California:

General area	Channels	
	Delete	Add
Sacramento, Calif	245	223

Released: January 9, 1958.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL]

MARY JANE MORRIS. Secretary.

[F. R. Doc. 58-285; Filed, Jan. 13, 1958; 8:49 a.m.] -

[Docket Nos. 12276, 12277; FCC 58M-13]

CARROLL BROADCASTING CO. AND HUM-PHREYS COUNTY BROADCASTING Co.

ORDER SCHEDULING HEARING

In re applications of E. R. McCormick. W. O. James and Donald B. Fiske, d/b as Carroll Broadcasting Company, Oak Grove, Louisiana, Docket No. 12276, File No. BP-11129; Roth E. Hook and Lucille Hook, d/b as Humphreys County Broadcasting Company, Belzoni, Mississippi, Docket No. 12277, File No. BP-11156; for construction permits.

It is ordered, This 6th day of January 1958, that Jay A. Kyle will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on March 10, 1958, in Washington, D. C.

Released: January 7, 1958.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL]

MARY JANE MORRIS, Secretary.

[F. R. Doc. 58-286; Filed, Jan. 13, 1958; 8:49 a. m.]

[Docket Nos. 12278-12280; FCC 58M-14] ALBANY BROADCASTING CORP. ET AL. ORDER SCHEDULING HEARING

In re applications of The Albany Broadcasting Corporation, Albany, Ore-

gon, Docket No. 12278, File No. BP-10793; W. Gordon Allen, Eugene, Oregon, Docket No. 12279, File No. BP-11173; Don J. Bevilacqua, Virgil A. Parker, III, Darrel K. Burns, d/b as The Community Broadcasting Company of Oregon, Eugene, Oregon, Docket No. 12280, File No. BP-11184; for construction permits. It is ordered, This 6th day of January

1958, that Elizabeth C. Smith will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on March 10, 1958, in Washington, D. C.

Released: January 7, 1958.

FEDERAL COMMUNICATIONS COMMISSION.

MARY JANE MORRIS. [SEAL] Secretary.

[F. R. Doc. 58-287; Filed, Jan. 13, 1958; 8:49 a. m.]

[Docket No. 12283; FCC 58-28]

JAMES H. DUNCAN (KSIL)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of James H. Duncan (KSIL), Silver City, New Mexico, Docket No. 12283, File No. BP-10737; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 8th day of

January 1958:

The Commission having under consideration the above-captioned application of James H. Duncan for a construction permit to change the facilities of Station KSIL, Silver City, New Mexico, from operation on 1340 kilocycles with a power of 250 watts, unlimited time, to operation on 1430 kilocycles with a power of 500 watts, nighttime, one kilowatt, daytime, unlimited time;

It appearing, that except as may be indicated from the issues specified below, the applicant is legally, technically, financially and otherwise qualified to operate Station KSIL as proposed, but that the proposed operation would cause nighttime interference to Stations KARM, Fresno, California (1430 kc, 5 kw, DA-1, U) KLO, Ogden, Utah (1430 kc, 5 kw, DA-1, U), KTUL, Tulsa, Oklahoma-(1430 kc, 5 kw, DA-N, U) and KOSI Aurora, Colorado (1430 kc, 500 w, 5 kw-LS, DA-N, U); and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicant was advised by letter dated July 18, 1957, of the aforementioned interference and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing that the applicant filed a timely reply to the Commission's letter; and

It further appearing that thel icensees of Stations KTUL, KARM and KLO have requested that the application be designated for hearing by letters dated August 9, 14, and 19, 1957, respectively: and.

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing is neces-

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Station KSIL as proposed, and the availability of other primary service to

such areas and populations.

2. To determine whether the proposed operation would cause interference to Stations KARM, Fresno, California, KLO, Ogden, Utah, KTUL, Tulsa, Okla-homa, and KOSI, Aurora, Colorado, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether the above-captioned ap-

plication should be granted.

It is further ordered, That Hattie Harm and George Robert Harm, d/b as KARM, The George Harm Station; The Interstate Corporation; Consolidated Radio Enterprises, Inc.; and the Mid-America Broadcasting Company, licensees of Stations KARM, KLO, KTUL and KOSI, respectively, are made parties to the proceeding.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicant and parties respondent herein, pursuant to § 1.387 of the Commission's rules, in person or by an attorney, shall within 20 days of the mailing of this Order, file with the Commission in triplicate, written appearances stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

Released: January 9, 1958.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION. MARY JANE MORRIS,

Secretary.

[F. R. Doc. 58-288; Filed, Jan. 13, 1958; 8:49 a. m.]

[Docket No. 12285; FCC 58-37]

STUDY OF RADIO AND TELEVISION NETWORK BROADCASTING

#### NOTICE OF PUBLIC HEARING

By Public Law 112, 84th Congress, 1st. Session, the Commission was authorized and directed by Congress to conduct a study of radio and television network broadcasting.

The study was formally instituted by the Commission's Delegation Order No. 10 of July 20, 1955 (FCC 55-810) in which it delegated to a Network Study Committee of four Commissioners its powers and jurisdiction to carry out the study.

By Public Notice (FCC 55M-977) and separate Order of November 21, 1955 (FCC 55M-978) the Network Study Committee announced the purposes and objectives of the Study. A special Network Study Staff was organized to conduct the Study and this Staff has, for for the past two years, been gathering information concerning the structure. operations and practices of the networks in their relationships with the other components of the industry.

On October 3, 1957, the Director of the Commission's Network Study Staff submitted to the Network Study Committee a Report on Network Broadcasting. The Report presents, for the first time in recent years, an integrated compilation of information and data concerning network television broadcasting. The Study has served to highlight the nature and scope of current problems affecting the administrative regulation of broadcasting.

The Study and the resultant Staff Report have afforded the Commission a basis for reappraising its rules and regulations relating to chain broadcasting, in the light of conditions existing in broadcasting today, and for determining whether the Commission should consider revisions of its Rules and Regulations and whether it should recommend to Congress the enactment of additional legislation relating to networks or amendments to the Communications Act.

The voluminous and detailed Report of the Network Study Staff is now under consideration by the Commission. Copies of the Report are available for inspection at the Commission's Public Reference Room in Washington, D. C., and copies will be available shortly at the Government Printing Office. The Report recommends a number of amendments to the Commission's chain broadcasting rules and recommends that the Commission propose to Congress several amendments to the Communications Act.

The Commission is of the opinion that. at this stage of the study, it is advisable and appropriate to hold a public hearing at which interested persons and organizations may have the opportunity to comment, primarily by way of oral testimony, on the findings, recommendations and conclusions contained in the aforementioned Report.

The Commission believes that the purposes of the Network Study directed by Congress will be best served by the adoption of the procedures designated herein. so that it may have the benefit of the views of interested persons and organizations in its consideration of the need for a revision of its rules and policies in

the broadcast field.

For the purposes of this hearing, and in order to afford the Commission with the utmost assistance in its consideration of these matters, it is requested that persons desiring to appear and testify should focus their attention primarily upon the specific findings, recommendations and conclusions contained in the Report; and that their testimony should be directed principally toward their views and opinions with respect to the effects and impact which the aforementioned recommendations of the Report might have on television broadcasting service in the public interest, and an evaluation of. such recommendations in terms of enhancing the development of a nationwide competitive television system. However, such witnesses may also address themselves to any other issues of fact or policy raised by the Report.

Written statements will be accepted at this time only for the purpose of pointing out inaccuracies, if any, in the factual data or statistics contained in the Report.

The Commission is, of course, desirous of receiving all testimony which will be of material assistance to it in making appropriate determinations of the important and complex issues facing it in this proceeding. However, the Commission wishes to conduct and conclude this hearing in as expeditious a manner as possible. It therefore desires to avoid the reception of testimony which will be merely repetitive or cumulative. Examination of witnesses will be conducted by the Commission.

Accordingly, notice is hereby given that a hearing will be held before the Commission en banc at its offices in Washington, D. C., commencing at 10:00 a. m. on the 3d day of March 1958, in the above entitled matter, for the purpose of obtaining testimony by interested persons and organizations, as indicated above, on the findings, recommendations and conclusions contained in the Report of the Network Study Staff.

All persons desiring to participate in the hearing shall file a notice of appearance, as provided in the Commission's rules and regulations, on or before January 31, 1958, said notice to contain the name of each witness, the organization he represents, if any, and a brief outline of the subject matter proposed to be covered in the testimony of said witness.

After all of the testimony has been received, the Commission will determine what further proceedings, if any, will be held in this matter.

Authority for this proceeding derives from Public Law 112, 84th Congress, 1st Session and is contained in sections 1, 4 (i), 303 (g) (i) and (r) and 403 of the Communications Act of 1934.

Adopted: January 8, 1958.

Released: January 9, 1958.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL]

MARY JANE MORRIS.

Secretary.

[F. R. Doc. 58-289; Filed, Jan. 13, 1958; 8:49 a. m.]

# FEDERAL POWER COMMISSION

[Docket No. G-13996]

SUNRAY MID-CONTINENT OIL CO.

ERRATA NOTICE

JANUARY 8, 1958.

In the Order for Hearing and Suspending Proposed Changes in Rates, issued December 20, 1957, and published in the Federal Register on December 28, 1957 (22 F. R. 10971), on page 2, line 5 under The Commission finds: "Schedule No. 1" should be corrected to

read "Schedule No. 101"; and line 6 of Ordering paragraph (A), "FPC Gas Rate Schedule No. 1" should be corrected to. read "FPC Gas Rate Schedule No. 101".

[SEAL]

JOSEPH H. GUTRIDE, Secretary.

[F. R. Doc. 58-259; Filed, Jan. 13, 1958; 8:45 a. m.]

# HOUSING AND HOME FINANCE AGENCY

### Federal National Mortgage Association

[4958 Dept. Circ. 1002 (Treas.)]

3% Percent Notes of Series ML-1960-A

OFFERING OF NOTES

JANUARY 9, 1958.

I. Offering of notes. 1. The Secretary of the Treasury, on behalf of the Federal National Mortgage Association, invites subscriptions, at par and accrued interest, from the people of the United States for notes of the Federal National Mortgage Association, designated 35% percent notes of Series ML-1960-A.

The amount of the offering is \$750,-000,000, or thereabouts. The books will be open only on January 9, 1958, for the

receipt of subscriptions.

II. Description of notes. 1. The notes will be dated January 20, 1958, and will bear interest from that date at the rate of 35% percent per annum, computed on a 360-day basis, payable on August 23, 1958, and thereafter on February 23 and August 23 in each year until the principal amount becomes payable. They will mature August 23, 1960, and will not be subject to call for redemption prior to maturity. Maturing principal, and interest coupons, will be payable when due at any Federal Reserve Bank or Branch, or at the Office of the Treasurer of the United States, Washington.

2. The notes will be issued under authority contained in Section 306 (b) of the Federal National Mortgage Association Charter Act (Title III of the National Housing Act, as amended), which provides that obligations, together with the interest thereon, issued thereunder are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the

Association.

3. The income derived from the notes does not have any exemption, as such, under the Internal Revenue Code of 1954. The notes are subject to Federal estate, gift or other excise taxes. The Federal National Mortgage Association Charter Act does not contain any specific exemption with respect to taxes now or hereafter imposed on the principal of or interest on the notes by any State, or any of the possessions of the United States, or by any local taxing authority.

4. The notes shall be lawful investments, and may be accepted as security for fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof. The notes also shall be eligible as investment securities for national banking associations.

5. Bearer notes with interest coupons attached will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000 and \$1,000,000. The notes will not be issued in registered form.

6. Transactions in the notes will be subject, so far as applicable, to the regulations and procedures now or hereafter prescribed by the Treasury for the conduct of similar transactions involving marketable United States securities.

III. Subscription and Allotment. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies. Others than commercial banks will not be permitted to enter subscriptions except for their own account. Subscriptions from commercial banks for their own account will be received without deposit, but will be restricted in each case to an amount not exceeding one-half of the combined capital, surplus and undivided profits of the subscribing bank. Subscriptions from all others must be accompanied by payment of 2 percent of the amount of notes applied for, not subject to withdrawal until after allotment. Following allotment, any portion of the 2 percent payment in excess of 2 percent of the amount of notes allotted may be released upon the request of the subscribers.

2. The Secretary of the Treasury reserves the right to reject or reduce any subscription, and to allot less than the amount of notes applied for; and any action he may take in these respects shall be final. Allotment notices will be sent out promptly upon allotment.

IV. Payment. 1. Payment at par and accrued interest, if any, for notes allotted hereunder must be made or completed on or before January 20, 1958, or on later allotment. In every case where payment is not so completed, the payment with application up to 2 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited.

V. General provisions. 1. As fiscal agents of the United States, Federal Re-

serve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for notes allotted, to make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. Further information with respect to the organization of the Federal National Mortgage Association, its financial position, and the notes to be issued hereunder, may be obtained upon application to any Federal Reserve Bank, or to the principal office of the Association in Washington, D. C.

3. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] ROBERT B. ANDERSON, Secretary of the Treasury.

[F. R. Doc. 58-273; Filed, Jan. 13, 1958; 8:47 a.m.]

# INTERSTATE COMMERCE COMMISSION

[32324]

ILLINOIS CENTRAL RAILROAD CO.

SUBURBAN FARES 1958

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., this 27th day of December 1957.

It appearing that by petition filed November 29, 1957, with the Interstate Commerce Commission, the Illinois Central Railroad Company seeks authority to increase its suburban fares in the Chicago Illinois area;

And it further appearing that petitioner avers that it has filed with the Illinois Commerce Commission tariff schedules containing the proposed increases within the Chicago suburban area and that the schedules have been suspended and not permitted to become effective; that the intrastate fares presently applicable in connection with petitioner's suburban operations, approved in Docket No. 31955, Illinois Central Suburban Fares, by order of May 8, 1956, and Illinois Commerce Commission

Docket No. 43175 which tariffs became effective on March 9, 1957, are unduly low resulting in unjust discrimination against and a burden upon interstate commerce in violation of Section 13 of the Interstate Commerce Act, unless increased to the extent proposed;

For good cause appearing: ordered. That in response to said petition, an investigation be, and it is hereby, instituted, and that a hearing be held for the purpose of giving the respondent hereinafter designated and any other persons interested an opportunity to present evidence to determine whether the present intrastate passenger fares and charges in connection with petitioner's suburban operations cause, or will cause, any undue or unreasonable advantage, preference or prejudice as between persons or localities in intrastate commerce, on the one hand, and intersate com-merce, on the other hand, or any undue, unreasonable, or unjust discrimination against interstate commerce, and to determine what fares and charges, if any, or what maximum or minimum, or maximum and minimum fares or charges, should be prescribed to remove the unlawful advantage, preference, prejudice, or discrimination, if any, as may be found to exist:

It is further ordered, That the Illinois Central Railroad Company be, and it is hereby, made the respondent to this proceeding; that a copy of this order be served upon such respondent; and that the State of Illinois be notified of this proceeding by sending copies of this order and of the said petition by registered mail to the Governor of said State and to the Illinois Commerce Commission at Chicago, Ill.

It is further ordered, That natice of this proceeding be given to the general public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D. C., and by filing a copy with the Director, Division of the Federal Register, Washington, D. C.;

And it is further ordered, That this proceeding be assigned for hearing at such time and place as the Commission may hereafter designate.

By the Commission, Division 2.

[SEAL] HAROLD D. McCOY,

Secretary.

[F. R. Doc. 58-261; Filed, Jan. 13, 1958; 8:46 a. m.]